



Senate
Research
Center

Highlights

of the *79TH*
TEXAS LEGISLATURE
Regular Session



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A Summary of Significant Legislation

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Supplemental Appropriations Bill, Fiscal Years 2005-2007—H.B. 10

By: Representative Pitts—Senate Sponsor: Senator Ogden

H.B. 10 makes supplemental appropriations for Fiscal Years (FY) 2005-2007 and reduces appropriations in FY 2005.

Fiscal Year 2005 Appropriations and Reductions:

Appropriates \$323,300,000 to the Health and Human Services Commission (HHSC) for the Medicaid program, including making supplemental hospital payments and restoring eligibility for Medicaid benefits to pregnant women with incomes up to 185 percent of the federal poverty level, provided that HHSC has used all revenue available to the Medicaid program, including premium credits and vendor drug rebates.

Appropriates \$65,700,000 to HHSC for the Children's Health Insurance Program and appropriates \$85,600,000 to HHSC for various programs.

Appropriates \$207,339,844 to the Department of Family and Protective Services to fund reforms of the Child Protective Services Program. An additional amounts of \$48,060,705 and \$2,900,000 matching funds is appropriated (p.3 of bill) Section 4 (2)(1).

Appropriates to the Department of Aging and Disability Services:

- \$22,300,000 to fund Community Care Caseload and Costs; and
- \$62,200,000 to make payments for nursing facility services and mental retardation community center services delivered in August 2005.

Appropriates to the Texas Department of Criminal Justice:

- \$15,900,000 to provide for contracted temporary capacity, salaries and wages, utilities, and fuel; and
- \$66,300,000 to provide correctional managed health care.

Appropriates \$30,700,000 to the Teacher Retirement System of Texas to fund the employee pass-through program.

Appropriates \$400,000 to the Texas Education Agency (TEA) to fund the juvenile justice alternative education program through an interagency agreement with the Texas Juvenile Probation Commission.

Appropriates to TEA:

- \$560,000,000 to fund the Foundation School Program; and
- \$175,000,000 to fund the purchase of textbooks.

Appropriates \$1,900,000 to the State Board for Educator Certification to fund the administration of certification examinations.

Appropriates \$1,500,000 to the secretary of state to fund the state matching contribution for the Help America Vote Act.

Appropriates \$2,140,000 to the Texas Parks and Wildlife Department to fund repairs to the San Jacinto Monument.

APPROPRIATIONS

Appropriates \$25,000,000 to the Texas Commission on Environmental Quality to fund clean up of sites contaminated by petroleum storage tanks.

Appropriates \$100,000,000 to the Texas Emerging Technology Fund, contingent on the enactment of H.B. 1765¹ or similar legislation.

Appropriates \$78,928,959 to agencies and institutions that own real property purchased with general revenue or general revenue dedicated funds and that had appropriations reduced under H.B. 1 (the General Appropriations Act), 78th Legislature, Regular Session, 2003.

- Requires the governor and the Legislative Budget Board to allocate the appropriations among the agencies and institutions, taking into account the reductions and distributions previously made.

Reappropriates any unencumbered and unexpended appropriated amounts, under H.B. 1, 78th Legislature, Regular Session, 2003, as amended by H.B. 28, 78th Legislature, 3rd Called Session, 2003.

Appropriates \$36,000 to the Ninth Court of Appeals, Beaumont, to fund salaries, and reduces by the same amount the unencumbered amounts previously appropriated to the Tenth Court of Appeals, Waco.

Requires the following appropriation reductions of unencumbered amounts:

- \$17,500,000 from the General Revenue Fund to the Texas Public Finance Authority;
- \$1,943,939 from General Revenue Dedicated Account No. 543 (the Texas Capital Trust Fund) to the Department of Aging and Disability Services;
- \$1,690,606 from General Revenue Dedicated Account No. 5025 (the State Lottery Account) to the Texas Lottery Commission;
- \$57,200,000 from General Revenue Dedicated Account No. 5100 (the System Benefit Fund) to the Public Utility Commission;
- \$6,000,000 from General Revenue Dedicated Account No. 5101 (the Subsequent Injury Fund) to the Texas Workers' Compensation Commission; and
- \$415,000 from General Revenue to the Texas Emancipation Juneteenth Cultural and Historical Commission.

Fiscal Years 2006-2007 Appropriations

Appropriates the first \$100,000,000 over the estimate to the Texas Emerging Technology Fund contingent on the actual amounts transferred to the Economic Stabilization Fund at the beginning of FY 2006 exceeding the amounts estimated by the comptroller of public accounts in the Biennial Revenue Estimate and contingent on the enactment of H.B. 1765² or similar legislation.

Appropriates \$2,400,000,000 to the Texas Education Agency for the operation of school districts under the Foundation School Program, contingent on enactment of H.B. 2,³ H.B. 3540,⁴ and/or S.B. 1863⁵ or similar legislation.

¹ H.B. 1765, 79th Legislature, Regular Session, was signed by the governor on June 14, 2005.

² H.B. 1765, 79th Legislature, Regular Session, was signed by the governor on June 14, 2005.

³ H.B. 2, 79th Legislature, Regular Session, failed to pass.

Appropriates to the Texas Education Agency (TEA) all additional state revenue that is attributable to the changes in law made by H.B. 3⁶, as estimated by the comptroller, for the Foundation School Program, contingent on the enactment of H.B. 3⁷ or similar legislation.

Appropriates the following amounts totaling \$872,000,000 in lieu of appropriations in S.B.1 contingent on H.B. 2⁸ or similar legislation. See p. 10 of bill, Section 19(1):

- \$164,600,000 to the TEA for textbooks;
- \$265,300,000 to the Department of Family and Protective Services for foster care;
- \$126,000,000 to the Department of Family and Protective Services for adoption subsidies; and
- \$316,100,000 to the Texas Education Agency for the Student Success Initiative.

Requires each entity appropriated money by this Act and each agency for which an amount of appropriations is reduced by this Act to report to the Legislative Budget Board.

Fiscal Year 2005 Appropriations and Reductions

Appropriates \$323,300,000 for Medicaid to the Health and Human Services Commission (HHSC) as follows:

- \$121,800,000 from the General Revenue Fund;
- \$92,400,000 from the Economic Stabilization Fund;
- \$40,000,000 from General Revenue Dedicated Account No. 5080 (Quality Assurance Fund); and
- \$69,100,000 from Other Funds (appropriated receipts match for Medicaid).

Draws down \$485,000,000 in additional matching federal funds from the Medicaid appropriation.

Results in a loss of revenue of \$28,200,000 in FY 2006 and \$39,600,000 in FY 2007 (General Revenue) as a result of the reduction in Disproportionate Share Hospitals program revenues attributable to implementation of the Upper Payment Limits program in FY 2004-05 compared to current law.

Appropriates \$65,700,000 (General Revenue) to HHSC for the Children's Health Insurance Program, drawing down \$168,900,000 in matching federal funds.

Appropriates \$85,600,000 to HHSC for various programs from the General Revenue Fund and will draw down \$128,400,000 in matching federal funds.

Appropriates \$207,339,844 to the Department of Family and Protective Services as follows:

- \$200,039,844 (Economic Stabilization Fund) and will draw \$48,060,705 in matching federal funds; and
- \$7,300,000 (General Revenue) that will draw \$2,900,000 in matching federal funds.

⁴ H.B. 3540, 79th Legislature, Regular Session, failed to pass.

⁵ S.B. 1863, 79th Legislature, Regular Session was signed by the governor on June 17, 2005.

⁶ Ibid.

⁷ H.B. 3, 79th Legislature, Regular Session, failed to pass.

⁸ H.B. 2, 79th Legislature, Regular Session, failed to pass.

APPROPRIATIONS

Appropriates \$22,300,000 (General Revenue) to the Department of Aging and Disability Services for Community Care Caseload and Costs that will draw \$33,500,000 in matching federal funds and a \$62,200,000 appropriation (General Revenue) to make payments for nursing facility services and mental retardation community center services that will draw \$85,800,000 in matching federal funds.

Appropriates \$82,200,000 to the Texas Department of Criminal Justice from the General Revenue Fund.

Appropriates \$30,700,000 to the Teacher Retirement System of Texas from the Economic Stabilization Fund.

Appropriates \$400,000 to TEA to fund the juvenile justice alternative education program out of General Revenue Account No. 193 (the Foundation School Fund).

Appropriates \$560,000,000 to TEA for the Foundation School Program from the Economic Stabilization Fund. The \$175,000,000 to TEA for textbooks will be from the Economic Stabilization Fund.

Appropriates \$1,900,000 to the State Board for Educator Certification from the General Revenue Fund.

Appropriates \$1,500,000 to the secretary of state out of the General Revenue Fund and transfers it to General Revenue Dedicated Account No. 5095 (the Election Improvement Fund).

Appropriates \$2,140,000 to the Texas Parks and Wildlife Department from the General Revenue Fund.

Appropriates \$25,000,000 to the Texas Commission on Environmental Quality from the General Revenue-Dedicated Account No. 655 (Petroleum Storage Tank Remediation).

Makes an appropriation to the Texas Emerging Technology Fund from the General Revenue Fund, contingent on other acts of the 79th Legislature, Regular Session.

Appropriates \$78,928,959 to agencies and institutions for partial restoration of appropriation reduction for property sales from the General Revenue Fund.

Due to vetoed appropriations the appropriation reduction of any unencumbered and unexpended appropriated amounts, under H.B. 1 (the General Appropriations Act) of the 78th Legislature, Regular Session, 2003, as amended by H.B. 28 of the 78th Legislature, 3rd Called Session, 2003, will result in savings in Fiscal Year 2005 of \$180,472,802 to the General Revenue Fund for state fiscal relief, \$24,485,786 to the General Revenue Fund and \$2,150,657 to General Revenue-Dedicated Accounts.

Appropriates \$36,000 to the Ninth Court of Appeals, Beaumont, and reduces \$36,000 of the unencumbered amounts previously appropriated to the Tenth Court of Appeals, Waco, from the General Revenue Fund.

Requires appropriation reductions of \$17,915,000 in General Revenue-Related funds and \$66,834,545 from General Revenue-Dedicated accounts.

Fiscal Years 2006-2007 Appropriations

Contingent appropriations to the Texas Emerging Technology Fund will be from the Economic Stabilization Fund. This estimate assumes that there will not be any additional revenue in the Economic Stabilization Fund above the amounts in the Biennial Revenue Estimate and the appropriation to the technology fund is contingent on other acts of the 79th Legislature, Regular Session.

Appropriates \$2,400,000,000 to TEA contingent on the enactment of H.B. 2⁹, H.B. 3540¹⁰, and/or S.B. 1863¹¹ or similar legislation as follows:

- \$872,000,000 from the Economic Stabilization Fund and
- \$1,528,000,000 from the General Revenue Fund; but the appropriation is contingent on other acts of the 79th Legislature, Regular Session. Therefore, the appropriation of \$872,000,000 in lieu of appropriations in S.B. 1 to the TEA and the Department of Family and Protective Services contingent on H.S. 2¹² or similar legislation not being enacted will be from the Economic Stabilization Fund.

Appropriates additional sums, contingent on the enactment of H.B. 3¹³ or similar legislation, but those appropriations cannot be determined, as they are contingent on other acts of the 79th Legislature, Regular Session.

Sources: Legislative Budget Board, Fiscal Note, 79th Legislative Regular Session, May 28, 2005.

General Appropriations Act—S.B. 1

By Senator Ogden—House Sponsor: Representative Pitts

Introduction

On June 16, 2004, a joint memorandum from the Legislative Budget Board and the Governor's Office of Budget, Planning, and Policy provided agencies with instructions for preparing submissions of the 2006-2007 legislative appropriations request. These instructions, sent to state agency boards and commission chairs, state agency heads and executive directors, appellate court justices and judges, chancellors and presidents of institutions of higher education, and presidents and directors of health-related institutions set forth the following:

[A]n agency's baseline request for general revenue-related funds will be limited to 95 percent of the sum of amounts expended in fiscal year 2004 and budgeted in fiscal year 2005. Requests shall include amounts necessary to maintain a constitutional school finance system and meet current law requirements, satisfy debt service requirements for existing bond authorizations, and maintain caseloads for federal entitlement services.

Funding requests for other purposes which exceed the baseline spending level may not be included in the baseline request but may be submitted as exceptional items.

These instructions outlined the basic principles by which the 79th Legislature would begin the appropriation process for the 2006-2007 biennium.

Overview

S.B. 1, as enrolled, recommended appropriations totaling \$139.4 billion in all funds for the 2006-2007 biennium. (See Figure 1.) This amount represents a \$12.8 billion, or a 10.1 percent increase, over the 2004-2005 biennial level

⁹ H.B. 2, 79th Legislature, Regular Session, failed to pass.

¹⁰ H.B. 3540, 79th Legislature, Regular Session, failed to pass.

¹¹ H.B. 3, 79th Legislature, Regular Session, failed to pass.

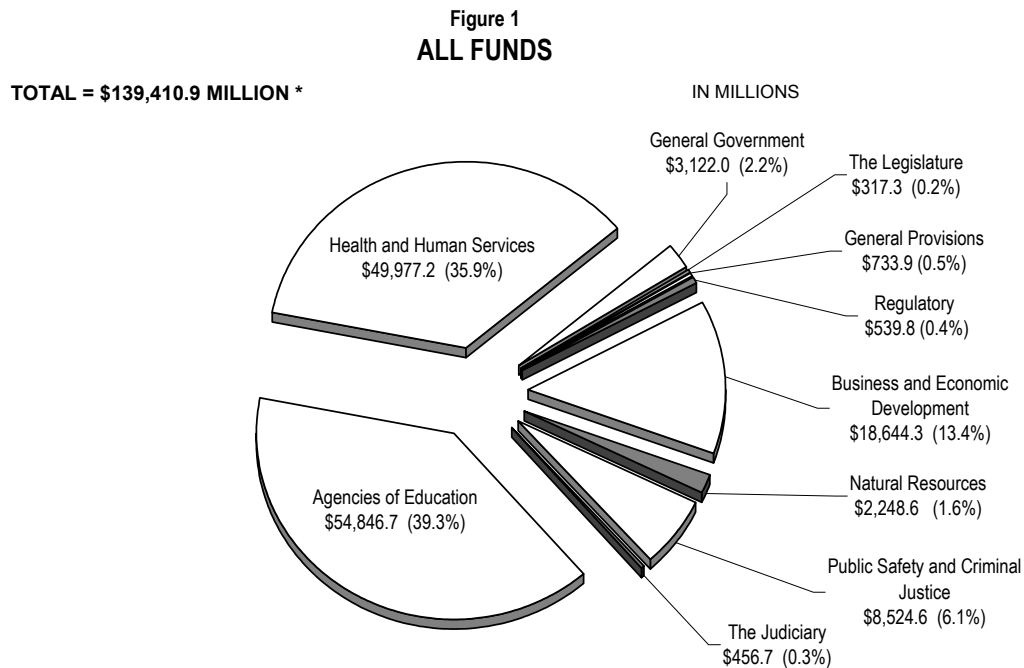
¹² See footnote 9.

¹³ See footnote 11.

APPROPRIATIONS

of spending. On June 3, 2005, the comptroller certified the budget recommendations contained in S.B. 1. These amounts have not been adjusted for line-item gubernatorial vetoes. (See Table 1.)

The General Appropriations Act, 2006-2007 Biennium, in its entirety, is available online at the Legislative Budget Board (LBB) website at http://www.lbb.state.tx.us/Bill_79/6_Conference/79-6_Conf_0505.pdf. A publication entitled, *Summary of Conference Committee Report on Senate Bill 1 for the 2006-2007 Biennium, 79th Legislative Session, Legislative Budget Board, May 2005*, is also available on the LBB website at http://www.lbb.state.tx.us/Bill_79/6_Conference/79-6_Conf_Summary_0505.pdf.



* Does not adjust for appropriations made by, or transferred to, H.B. 10.
Notes: Excludes interagency contracts. Totals may not add because of rounding.

Source: Legislative Budget Board

**Table 1
ALL FUNDS**

in millions				
Function	Expended/ Budgeted 2004-05*	Conference Recommended 2006-07**	Biennial Change	Percentage Change
Article I - General Government	\$3,479.9	\$3,122.0	\$(357.9)	(10.3)%
Article II - Health and Human Services	44,002.9	49,977.2	5,974.3	13.6
Article III - Agencies of Education	51,539.1	54,846.7	3,307.6	6.4
Public Education	34,600.5	36,839.5	2,238.9	6.5
Higher Education	16,938.6	18,007.2	1,068.7	6.3
Article IV - The Judiciary	428.7	456.7	28.0	6.5
Article V - Public Safety and Criminal Justice	8,172.4	8,524.6	352.1	4.3
Article VI - Natural Resources	2,323.3	2,248.6	(74.7)	(3.2)
Article VII - Business and Economic Development	15,683.2	18,644.3	2,961.1	18.9
Article VIII - Regulatory	669.5	539.8	(129.8)	(19.4)
Article IX - General Provisions	0.0	733.9	733.9	NA
Article X - The Legislature	325.0	317.3	(7.7)	(2.4)
Total	\$126,624.1	\$139,410.9	\$12,786.8	10.10%

*Includes anticipated supplemental spending needs as of December 2004 (excludes H.B. 10).
 ** Does not adjust for appropriations made by, or transferred to H. B. 10.
 Notes: Excludes interagency contracts.
 Totals may not add because of rounding.
 Biennial change and percentage change calculated on actual amounts before rounding.

Source: Legislative Budget Board

Major highlights of S.B. 1 include:

Education

- Appropriates \$24.6 billion in all funds for the Foundation School Program. This amount includes an increase of \$175 million in general revenue funds to extend school facilities funding to additional school districts, and \$1.1 billion in general revenue funds to maintain enrollment growth and current law obligations, maintain equity, and account for a one-month deferral of funding for the current biennium. S.B. 1 also includes a \$548 million transfer to the Texas Education Agency from the Teacher Retirement System to fund the teacher pass-through in the Foundation School Program.
- Appropriates \$0.5 billion for TRS-Care, the healthcare system for retired school employees. This amount represents a decrease of \$0.2 billion from the 2004-2005 biennial level due to a large 2005 reserve and implementation of federal Medicare legislation.
- Increases funding by \$188.7 million in general revenue for enrollment growth at institutions of higher education. General revenue formula funding for institutions of higher education reflects an increase of \$242.9 million. The recommended amounts also reflect an increase of approximately \$0.1 billion in general revenue-dedicated funds, primarily in tuition and fees.

APPROPRIATIONS

Health and Human Services

- Appropriates \$37.9 billion in all funds for Medicaid programs, including \$13.6 billion in general revenue and \$0.6 billion in general revenue-dedicated. This amount represents an increase of \$4.9 billion in all funds, \$2.3 billion in general revenue and general revenue-dedicated, to serve anticipated increases in clients, restoration of certain services to adult Medicaid recipients, partially restore the Medically Needy program, create a Medicaid buy-in program, expand community care waiver programs, address cost growth in the program, and restore reimbursement rates to, or increase rates above, FY 2003 levels for long-term care services.
- Appropriates \$1.4 billion in all funds (\$0.4 billion in general revenue funds) for the Children's Health Insurance Program (CHIP). This funding includes projected increases in client caseloads; addresses cost growth; adjusts assumptions on client cost sharing; restores dental, vision, hospice, and mental health benefits; and establishes prenatal benefits.
- Appropriates \$0.3 billion in all funds, of which \$0.2 billion is general revenue and general revenue-dedicated for protective services reform. The majority of the funding, \$0.2 billion, supports reform in Child Protective Services (CPS). CPS reform includes 1,469 new full-time equivalent (FTE) positions in FY 2006 and an additional 1,054 FTEs in FY 2007.

Criminal Justice

- Includes \$4.0 billion in all funds for the incarceration and treatment of adult felons. This amount represents an increase of \$0.1 billion in general revenue funds to address projected population increases and rising healthcare and utility costs, replace on-time land sale receipts, and partially compensate for decreases in federal funds.

Employee Benefits and Salaries

- Provides for a state employee pay raise, including associated benefits, totaling an increase of \$0.6 billion in all funds. Applies to non-exempt, classified general-government employees, excluding higher education. Provides for a four percent salary increase, with a minimum of \$100 per month, effective September 1, 2005, and an additional three percent salary increase, with a minimum \$50 per month, beginning September 1, 2006. Also, includes a change in longevity pay to \$20 per month for every two years of service, from the previous provision of \$20 per month for every three years of service.
- Appropriates \$3.0 billion in all funds for state employee health costs, reflecting an increase of \$0.4 billion in general revenue funds for increased medical and drug costs.
- Appropriates \$3.7 billion in all funds for retirement contributions, including \$2.9 billion for the Teacher Retirement System, \$0.6 billion for the Employees Retirement System, and \$0.2 billion for the Optional Retirement System for certain higher education employees.

Bond Debt Service

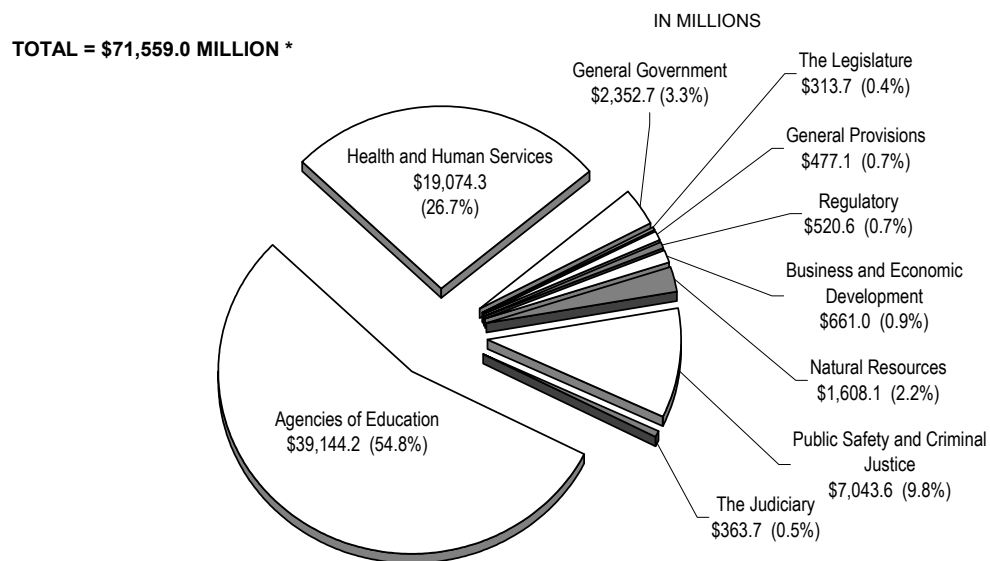
- Appropriates \$1.3 billion in all funds for debt service payments on bonds and other long-term financing. This represents an increase of \$0.3 billion in general revenue funds to cover principal and interest needs for existing general obligation and tuition revenue bonds and to account for the fact that 2004-2005 biennial appropriations covered interest payments only on commercial paper.

Transportation

- Appropriates \$13.9 billion in all funds for the state's transportation system. This amount includes planning and design, acquisition of right-of-way, construction, and maintenance and operation of the system. The recommendations represent a \$1.2 billion increase in federal funds and a \$1.7 billion increase in other funds over the 2004-2005 base level due to additional finance tools available to the Texas Department of Transportation.

General revenue funding, including general revenue-dedicated funds, totals \$71.6 billion for the 2006-2007 biennium, representing an increase of \$6.0 billion or 9.2 percent above the 2004-2005 biennial total. (See Figure 2 and Table 2.)

Figure 2
General Revenue and General Revenue-Dedicated Funds



* Does not adjust for appropriations made by, or transferred to, H.B. 10.
Note: Totals may not add because of rounding.

Source: Legislative Budget Board

Table 2
GENERAL REVENUE AND GENERAL REVENUE - DEDICATED FUNDS

in millions				
Function	Expended/ Budgeted 2004-05*	Conference Recommended 2006-07**	Biennial Change	Percentage Change
Article I - General Government	\$1,905.1	\$2,352.7	\$447.7	23.50%
Article II - Health and Human Services	16,338.8	19,074.3	2,735.5	16.7
Article III - Agencies of Education	37,021.2	39,144.2	2,123.0	5.7
Public Education	24,475.4	26,107.5	1,632.1	6.7
Higher Education	12,545.8	13,036.7	490.9	3.9
Article IV - The Judiciary	347.6	363.7	16.0	4.6
Article V - Public Safety and Criminal Justice	6,615.9	7,043.6	427.7	6.5
Article VI - Natural Resources	1,643.9	1,608.1	(35.8)	(2.2)
Article VII - Business and Economic Development	683.2	661.0	(22.3)	(3.3)
Article VIII - Regulatory	647.7	520.6	(127.2)	(19.6)
Article IX - General Provisions	0.0	477.1	477.1	NA
Article X - The Legislature	321.4	313.7	(7.7)	(2.4)
Total	\$65,524.9	\$71,559.0	\$6,034.1	9.2%

*Includes anticipated supplemental spending needs as of December 2004 (excludes H.B. 10).
 **Does not adjust for appropriations made by, or transferred to H.B. 10.
 Notes: Totals may not add because of rounding. Biennial change and percentage change calculated on actual amounts before rounding.

Source: Legislative Budget Board

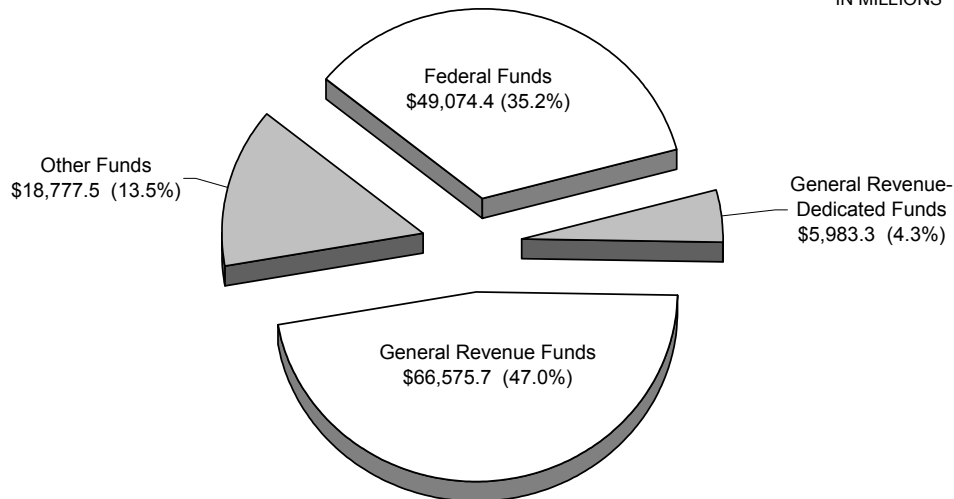
S.B. 1 recommendations, by funding source for the 2006-2007 biennium, include the following changes from the 2004-2005 biennium. (See Figure 3.)

- General Revenue funding totals \$66.6 billion, or approximately 47.0 percent of the recommended budget. This represents an increase of 9.8 percent above the 2004-2005 recommended levels.
- Federal Funds total \$49.1 billion, or 35.2 percent of the recommended budget. This represents an increase of 10.3 percent above the 2004-2004 recommended levels.
- General Revenue-Dedicated funding totals \$5.98 billion, or 4.3 percent of the recommended budget. This represents an increase of 2.7 percent above the 2004-2005 recommended levels.
- Other Funds total \$18.8 billion, or 13.5 percent of the recommended budget. This represents an increase of 13.1 percent above the 2004-2005 recommended levels.

Figure 3
BIENNIAL RECOMMENDATIONS FOR 2006-07
BY FUND SOURCE

TOTAL = \$139,410.9

IN MILLIONS



Notes: Excludes interagency contracts. Totals may not add because of rounding.

Source: Legislative Budget Board

S.B. 1 includes funding for 221,353 FTE positions in FY 2006 and 219,416 FTEs in FY 2007. The 2007 FY number of FTEs (219,416) represents a decrease of 3,444 FTEs from the 2005 budgeted level. (See Table 3.)

Table 3
FULL-TIME EQUIVALENT POSITIONS

Function	Expended 2003	Estimated 2004	Budgeted 2005	Conference Recommended	
				2006	2007
Article I - General Government	9,101	8,800	9,359	9,449	9,462
Article II - Health and Human Services	48,894	46,630	46,328	47,570	45,561
Article III - Agencies of Education	77,685	77,685	81,101	82,685	82,692
Article IV - The Judiciary	1,299	1,287	1,326	1,334	1,334
Article V - Public Safety and Criminal Justice	53,747	51,991	53,574	53,480	53,521
Article VI - Natural Resources	8,289	8,086	8,525	8,381	8,327
Article VII - Business and Economic Development	19,237	18,140	19,049	19,009	19,004
Article VIII - Regulatory	3,380	3,292	3,598	3,683	3,688
Article IX - General Provisions	NA	NA	NA	(4,237)	(4,173)
Total, All Agencies	221,631	215,910	222,860	221,353	219,416

Notes: Totals may not add because of rounding.

Source: Legislative Budget Board

APPROPRIATIONS

S.B. 1 recommendations contained an across-the-board FTE cap reduction of two percent. Certain exclusions were provided for in the bill, including a state agency or institution having fewer than 300 FTEs, the Office of the Governor, the Comptroller of Public Accounts, and the Office of the Attorney General. In addition, agencies have the ability to request an exemption if the new FTE cap is impractical or inefficient.

Gubernatorial Vetoes

In accordance with Article IV, Section 14, Texas Constitution, the governor has the right to file objections to individual items or appropriations, make proclamation of the same, and thereby remove from such items or appropriations any force or effect. The governor made line item vetoes totaling \$23.4 billion in general revenue and \$35.3 billion in all funding sources. The governor made the following line-item vetoes:

- \$314,252 in FY 2006 and \$217,151 in FY 2007 for information resources at the Commission on the Arts and the use of unexpended balances within the biennium;
- \$6.9 million in FY 2006 and unexpended balances in FY 2007 for agency grant assistance within the Truvested Programs within the Office of the Governor and contingency appropriations for S.B. 1096 and S.B. 1100;
- a contingency appropriation for nursing facilities and hospice payments at the Department of Aging and Disability Services;
- a contingency appropriation for H.B. 2 for the Department of Assistive and Rehabilitative Services;
- \$154.0 million in FY 2006 and \$290.3 million in FY 2007 for Medicare Federal Give Back within the Health and Human Services Commission;
- \$17.1 billion in FY 2006 and \$16.7 billion in FY 2007 for all items of appropriations within the Texas Education Agency, including the contingency appropriation rider 94 relating to textbooks;
- \$486,556 in FY 2006 and \$75,000 in FY 2007 for the Office of the Attorney General Lawyers Loan Repayment within the Higher Education Coordinating Board and accompanying rider;
- a contingency appropriation rider for S.B. 368 within the Office of Court Administration-Texas Judicial Council for a judicial salary increase that did not pass in any legislation;
- \$19.9 million in FY 2006 and \$43.8 million in FY 2007 for contracted temporary capacity within the Texas Department of Criminal Justice, and a contingency rider for H.B. 1093;
- \$7.0 million in FY 2006 and \$17.9 million in FY 2007 for all items of appropriation, eliminating the funding for the Texas Military Facilities Commission;
- a contingency appropriation rider for the Oil Field Cleanup Account and General Revenue Fee Allocations within the Railroad Commission;
- \$3.8 million in FY 2006 and \$3.8 million in FY 2007 for central administration within the Texas Workers' Compensation Commission (TWCC) and an additional \$1.3 million in FY 2007 in other support services in TWCC; and
- contingency appropriation riders for new programs and bills that did not pass as follows: S.B. 165, relating to the regulation of private process servers; S.B. 368, relating to judicial salary increases; S.B. 696, relating to testing and examination fee requirements for certain provisional license holders; S.B. 785, relating to the regulation of quarries; S.B. 1143, relating to a loan secured by personal property with limited recourse against the borrower; S.B. 1239, relating to a risk assessment program for Type 2 diabetes and the creation of the Type 2 Diabetes Risk Assessment Program Advisory Committee; S.B. 1581, relating to the creation of a state pharmacy assistance program; S.B. 1667, relating to the transfer of radioactive waste regulation;

H.B. 2233, relating to state and certain local fiscal matters; and H.B. 2329, relating to authorization for issuance of tuition revenue bonds.

Economic Stabilization Fund (ESF or "Rainy Day Fund")

The legislature appropriated approximately \$1.9 billion from the ESF, through the supplemental appropriations bill, H.B. 10. (See Supplemental Appropriations Bill, Fiscal Years 2005-2007—H.B. 10.)

Sources: Office of the Comptroller of Public Accounts; *Summary of Conference Committee Report on S.B. 1 For the 2006-2007 Biennium*, Legislative Budget Board, May 2005; Proclamation by the Governor of the State of Texas, Item Veto Proclamation for S.B. 1, June 18, 2005.

Street Lights in Colonias—H.B. 775

By Representative Gonzales et al.—Senate Sponsor: Senator Lucio

Currently, the Office of Rural Community Affairs (ORCA) receives a community development block grant from the federal government via the United States Department of Housing and Urban Development to develop viable communities by providing housing and living environments and expanding economic opportunities principally for persons of low and moderate income. This bill:

Requires ORCA to adopt a rule requiring a political subdivision that receives community development block grant money to allocate a certain percentage of the funds toward the installation of street lighting in colonias.

Interagency Work Group on Border Issues—H.B. 925

By Representative Chavez—Senate Sponsor: Senator Lucio

The 78th Legislature, Regular Session, 2003, established an interagency work group under the Office of Rural and Community Affairs to discuss rural issues and to provide information showing the impact each agency has on rural communities for use in developing rural policy. Currently, there is limited formal cooperation among the various state agencies and offices that provide programs and services in border communities and to residents living near the international border. This bill:

Creates an interagency work group on border issues to improve coordination of government programs and services offered in the border area.

DPS Agreements Relating to Foreign Driver's Licenses—H.B. 1137

By Representative Wayne Smith—Senate Sponsor: Senator Seliger

Texans working for multinational corporations and stationed overseas for long periods of time for work-related purposes often find it difficult to secure foreign driver's licenses. This bill:

Authorizes the Department of Public Safety (DPS) to enter into an agreement with a foreign country under which a person who is 18 years of age or older and who has in the person's possession a license issued to the person by that country that is similar to a Class C driver's license may receive a Class C driver's license issued in a priority manner and a person who is 18 years of age or older and who has in the person's possession a Class C driver's license may receive a license similar to a Class C driver's license issued in a priority manner from the foreign country.

Authorizes DPS to only enter into an agreement with a country if the foreign country and this state are both parties to a reciprocity agreement in driver licensing; and the foreign country's motor vehicle laws, ordinances, and administrative rules and regulations are similar to those of this state, as determined by DPS.

Requires a person who is not a citizen of the United States to present to DPS documentation issued by the United States agency responsible for citizenship and immigration authorizing the person to be in the United States before the person may be issued a driver's license under an agreement under this Act.

Binational Alcohol and Substance Abuse Task Force—H.B. 3426

By Representative Chavez et al.—Senator Sponsor: Senator Shapleigh

Differences in alcohol policies, the legal drinking age, and the standards and limitations of enforcement of United States and Mexico laws on alcohol consumption and public intoxication have contributed to public health and public safety concerns on both sides of the international border. This bill:

Requires the Department of State Health Services to establish a binational substance abuse task force to study various issues related to the abuse of substances and alcohol and submit a report to the governor and the legislature.

Border Trade Advisory Committee—S.B. 183

By Senator Lucio et al.—House Sponsors: Representatives Chavez and George "Buddy" West

The 77th Legislature, 2001, established the Border Trade Advisory Committee (committee) under the Texas Transportation Commission (commission) to assist the commission in defining and developing a strategy and making recommendations for addressing the highest priority border trade transportation challenges. The commission is to consider the importance of trade with the United Mexican States, potential sources of funding for border ports, and the value of trade activity in three Texas Department of Transportation districts adjacent to the Texas-Mexico border. This bill:

Provides the commission with greater legislative direction in terms of the composition of the committee and requires a biennial report to the legislature.

DPS and Mexico Meeting on Transportation and Inspection Issues—S.B. 293

By Senators Zaffirini et al.—House Sponsors: Representatives Guillen and Chavez

The delay for commercial carriers entering the United States via a land port of entry along the international border has become a significant impediment to increased trade between Texas and Mexico. This bill:

Requires the Department of Public Safety to initiate efforts to meet with its counterparts in bordering Mexican states to discuss issues relating to truck inspections and transportation and develop plans in conjunction with the border commerce coordinator to recommend ways to expedite trade by mitigating delays in border crossing inspections.

Subdivision Platting Requirements on the Border—S.B. 425

By Senators Hinojosa and Ellis—House Sponsors: Representatives Luna and Seaman

Current law regulating colonias is only applicable to counties within 50 miles of the Texas-Mexico border, yet some colonias exist outside that region. This bill:

Allows a county that is located within 100 miles of an international border and that contains a city with a population of more than 250,000 to regulate subdivision platting requirements and utility services and receive assistance from the state.

TxDOT and Mexico Meeting on Transportation and Inspection Issues—S.B. 569

By Senator Zaffirini et al.—House Sponsors: Representatives Guillen and Chavez

The 77th Legislature, Regular Session, 2001, directed the Texas Department of Transportation (TxDOT) to initiate efforts to meet at least semiannually with TxDOT's counterparts in Mexican border states to discuss transportation and infrastructure issues. This bill:

Requires TxDOT to initiate such meetings with its counterparts in Mexican border states at least quarterly and, in conjunction with the border commerce coordinator, to submit plans to the legislature recommending ways to expedite trade by mitigating delays in border crossing inspections.

Long-range Plan for South Texas Health Care—S.B. 815

By Senator Lucio—House Sponsor: Representative Solis

During the 76th Legislature, Regular Session, 1999, S.B. 1615 was enacted to allow Cameron and Hidalgo counties to pool resources to jointly establish a health services district for the purpose of improving indigent health services. To date, neither site has become functional. This bill:

Requires the Department of State Health Services (DSHS) to contract for the construction of at least one new physical facility for outpatient health care services, including outpatient tuberculosis, out of funds appropriated for that purpose.

Authorizes one facility to be located in Hidalgo County and another facility to be located in Cameron County.

Deletes existing text relating to specific guidelines for the facility.

Requires that all outpatient health care services, including outpatient tuberculosis services, provided by the South Texas Health Care System be transferred to that facility or facilities upon completion of the physical facility or facilities.

Requires DSHS, if it does not use the current physical facilities of the South Texas Health Care System (system) upon completion of the physical facility or facilities required by this Act, to give the Department of Aging and Disability Services (DADS) the first option to lease the current physical facilities of the system on completion of construction of the physical facility or facilities for outpatient health care services, and after contracting providers or entities of this Act, have begun providing inpatient health care and related laboratory services.

Requires DSHS, if DADS does not lease the facilities, to study and prepare leasing and other options for potential future uses of the facilities.

Identifying Colonias and Tracking State-Funded Projects—S.B. 827

By Senators Zaffirini and Ellis—House Sponsor: Representative Guillen

Currently, state agencies collect pertinent information concerning colonias, but there is no statewide classification system reporting the progress of state-funded projects in colonia areas. This bill:

Requires the secretary of state to establish and maintain a classification system to track the progress of state-funded projects in colonia areas and submit a report to the legislature on the progress of the projects.

Colonia Initiative and Services—S.B. 1202

By Senators Lucio and Ellis—House Sponsor: Representative Chavez

In 1999, the 76th Legislature passed S.B. 1421 to improve the coordination of colonia initiatives among the several agencies involved in issues affecting colonias, allowing the governor to designate an agency to act as the state's colonia initiatives coordinator (coordinator). Currently, the Office of the Secretary of State serves as the coordinator. This bill:

Expands the list of agencies involved with colonia initiatives and requires the colonia initiatives coordinator to work with those agencies on colonia projects.

Mandatory HIV Test on Certain Inmates and State Jail Felons—H.B. 43

By Representative Yvonne Davis—Senate Sponsor: Senator Ellis

Currently, there is no statute that requires the Texas Department of Criminal Justice (TDCJ) to conduct mandatory human immunodeficiency virus (HIV) tests on inmates and state jail felons before they are released. The purpose of this bill is to address the health risks posed by releasing inmates infected with HIV/AIDS who unknowingly transmit the deadly disease to others. This bill:

Authorizes the institutional division of the Texas Department of Criminal Justice (TDCJ-ID) to test an inmate confined in a facility operated by TDCJ-ID for HIV at any time, but requires the division to test an inmate who is eligible for release before the inmate is released from TDCJ-ID.

Authorizes TDCJ-ID, if it determines that an inmate has a positive test result, to segregate the inmate from other inmates.

Requires TDCJ-ID to report the results of a positive test to the Department of State Health Services for the purposes of notification and reporting.

Requires the state jail division of TDCJ to adopt a policy for handling a defendant with AIDS or HIV and to test a defendant for AIDS or HIV in the same manner and subject to the same conditions as apply to TDCJ-ID.

Punishment and Community Supervision for Intoxication Offenses—H.B. 51

By Representatives Todd Smith and Pena—Senate Sponsor: Senator Zaffirini

Under current law, persons convicted of certain intoxication offenses and placed on community supervision may be required to have an ignition interlock device installed on their vehicles. The device makes it impossible for the vehicle to be operated if ethyl alcohol is detected in the breath of the operator. If the person has been previously convicted of an intoxication offense, the person is required to have the device installed. This bill:

Amends Section 49.09 (Enhanced Offenses and Penalties), Penal Code, to enhance penalties for certain intoxication offenses, for persons who have previously been convicted of an intoxication offense.

Repeals the ten-year provision which, under current law, prohibits the offense from being enhanced if the prior conviction was more than 10 years ago and the defendant has not been convicted of a subsequent intoxication offense.

Requires the court to require as a condition of community supervision that the defendant have the device installed on the appropriate vehicle and that the defendant not operate any motor vehicle unless the vehicle is equipped with that device if it is shown on the trial of the offense that an analysis of a specimen of the person's blood, breath, or urine showed an alcohol concentration level of 0.15 or more at the time the analysis was performed.

Inmate Death Certificates—H.B. 93

By Representative Riddle—Senate Sponsor: Senator Janek

Under current law, certificates of death for those legally executed by the state classify the cause of death as homicide. Several states which impose the death penalty have changed the certificates of death to state as cause of death "Judicial Execution," "Death by Legal Execution," or "Execution by the State." This bill:

Requires the death certificate of a decedent who was an inmate of the Texas Department of Criminal Justice at the time of death and who was lawfully executed to classify the manner of death as death caused by judicially ordered execution.

Community Supervision for Conviction of an Intoxication Offense—H.B. 157

By Representative Cook et al.—Senate Sponsor: Senator Averitt

Currently, a person convicted of an offense under Chapter 49 (Intoxication and Alcoholic Beverage Offenses), Penal Code, is required to serve three days of confinement in county jail, but the time frame for that service is unclear. This bill:

Requires a judge granting community supervision to a defendant convicted of an offense under Chapter 49, Penal Code, to require as a condition of community supervision that the defendant submit to not less than 72 hours of continuous confinement in county jail.

Controlling the Manufacture of Methamphetamine—H.B. 164

By Representative Berman et al.—Senate Sponsor: Senator Estes

The manufacture, delivery, and consumption of methamphetamines is a growing epidemic in Texas. In 2000, the Texas Commission on Alcohol and Drug Abuse (TCADA) reported that 1,821 people were admitted into Texas treatment centers for methamphetamine abuse; in 2004, that number rose to 11,238. The manufacture of methamphetamine exposes people to toxic chemicals and creates a significant danger of fire or explosion. The cleanup of seized methamphetamine labs costs the state additional funds, and peace officers often sustain serious injuries from exposure to methamphetamine labs and those who manufacture the drugs. This bill:

Amends the Health and Safety Code by including items used in the manufacture, processing, analyzing, storing, or concealing of methamphetamine in the offense of possession or transport of certain chemicals with intent to manufacture a controlled substance.

Amends the Health and Safety Code by combining the separate offenses related to the illegal possession or transport of anhydrous ammonia and the illegal use of equipment involving anhydrous ammonia into a single offense.

Authorizes the Department of Family and Protective Services (DFPS) to take possession of a child who has been permitted to remain on premises used for the manufacture of methamphetamine.

Restricts the sale of solid dose forms of pseudoephedrine to businesses that own and operate a pharmacy and to those businesses that obtain a certificate of authority from the Department of State Health Services (DSHS).

Requires DSHS to issue certificates, collect fees, and inspect firms with a certificate of authority to assure compliance with the law and authorizes DSHS to recover reasonable costs related to the processing of licenses and conducting inspections.

Adds a new subchapter to Chapter 431 of the Health and Safety Code to regulate the distribution of prescription drugs.

Creates additional requirements for licensing as a wholesale prescription drug or device distributor.

Requires the Health and Human Services Commission to adopt rules related to implementing certain provisions of the bill.

Establishes punishments for elements of criminal behavior related to the manufacture of methamphetamines.

Amends the Health and Safety Code by requiring wholesalers of pseudoephedrine to make available all records of transactions, and requiring wholesalers to report orders of suspicious quantities of pseudoephedrine.

The Effect of an Expunction—H.B. 269

By Representative Keel et al.—Senate Sponsor: Senator West

Current law allows the Department of Public Safety (DPS) to disseminate criminal history records subject to an expunction order to criminal justice agencies, authorized noncriminal justice agencies, and the person who is the subject of the expunction order. This bill:

Amends the Code of Criminal Procedure to prohibit the release, maintenance, dissemination, or use of expunged records and files for any purpose upon a final order of expunction.

Directs DPS to take certain action to ensure compliance with the prohibition of any release of information under the bill, including the destruction of any information that was maintained by DPS solely to comply with current law.

Notification of Release After Acquittal by Reason of Insanity—H.B. 291

By Representative Goolsby—Senate Sponsor: Senator Carona

Current Texas law does not provide for notification to the victims or family of victims of violent crimes when a defendant has successfully utilized the insanity plea and is discharged or released to outpatient care. This bill:

Amends the Code of Criminal Procedure to require courts releasing defendants following acquittal by reason of insanity to provide the Texas Department of Criminal Justice (TDCJ) with a victim's name, address, and phone number.

Requires TDCJ to notify the victim, victim's guardian, or victim's close relative of certain inmate releases.

Discharging Firearm Across Property Line—H.B. 505

By Representatives Hilderbran and Byron Cook—Senate Sponsor: Senator Madla

Currently it is not a violation of the law to discharge a firearm across a property line, which can create an unsafe environment in areas where there are smaller tracts of land. This bill:

Makes discharging a firearm across a property line a Class C Parks and Wildlife Code misdemeanor punishable by the revocation or suspension of hunting and fishing licenses and permits.

Right of Sexual Assault Victim to a Forensic Medical Examination—H.B. 544

By Representatives Naishtat and McClendon—Senate Sponsors: Senators Zaffirini and Van de Putte

Currently, law enforcement agencies are not required to request a forensic medical examination for victims who report a sexual assault within a certain time period. A forensic examination is a highly technical examination used to collect evidence from a person's body. DNA evidence can be the most valuable evidence collected from the victim and damage to tissue, bruising, and other injuries can point to lack of consent. This bill:

Provides that a victim of a sexual assault is entitled to a forensic medical examination, if the sexual assault is reported to a law enforcement agency within 96 hours of the assault.

Requires a law enforcement agency, if a sexual assault is reported to the law enforcement agency within 96 hours of the assault, with consent of the victim, a person authorized to act on behalf of the victim, or an employee of the Department of Family and Protective Services, to request a medical examination of the victim of the alleged assault for use in the investigation or prosecution of the offense.

Authorizes a law enforcement agency to decline to request a medical examination only if the person reporting the sexual assault has made one or more false reports of sexual assault to any law enforcement agency and if there is no other evidence to corroborate the current allegations of sexual assault.

Authorizes the law enforcement agency, if a sexual assault is not reported within the 96-hour period, on receiving the consent of the alleged victim, to request a medical examination of a victim of an alleged sexual assault as considered appropriate by the agency.

Prohibiting the Introduction of Certain Items in Correctional Facilities—H.B. 549

By Representatives Phillips and Guillen—Senate Sponsor: Senator Seliger

Under current law, people are prohibited from providing certain items to inmates in correctional facilities in Texas. Among those prohibited items are alcoholic beverages, controlled substances, dangerous drugs, and deadly weapons. Cellular telephones, cigarettes, tobacco products, and money are also prohibited from being provided to inmates in a correctional facility operated by or under contract with the Texas Department of Criminal Justice. However, this provision does not currently apply to jails in local jurisdictions. This bill:

Sets forth actions which constitute an offense, including providing a cellular telephone or money to a person confined in a local jail regulated by the Commission on Jail Standards or providing a cigarette or tobacco product to such a person and, in providing the tobacco product, violating certain rules and regulations adopted by the sheriff or jail administrator.

Defines "contraband."

Provides that an offense under this section is a Class C misdemeanor, unless the offense is committed by an employee or a volunteer of the correctional facility, in which event the offense is a Class B misdemeanor.

Good Conduct Time Forfeiture Related to Writs of Habeas Corpus—H.B. 681

By Representative Gattis—Senate Sponsor: Senator Ogden

In 2003, the Court of Criminal Appeals received thousands of writs of habeas corpus. The intent of this legislation is to limit the number of frivolous lawsuits filed with the Court of Criminal Appeals by inmates. This bill:

Defines "final order" to mean a certified copy of a final order of a state or federal court that dismisses as frivolous or malicious a lawsuit, including a proceeding arising from an application for writ of habeas corpus, brought by an inmate while the inmate was in the custody of the department or confined in county jail awaiting transfer to the department following conviction of a felony or revocation of community supervision, parole, or mandatory supervision.

Defines an application for writ of habeas corpus as "frivolous" if brought for the purpose of abusing judicial resources.

Adds writs of habeas corpus in the definition of frivolous lawsuits that can result in the forfeiture of an inmate's good conduct credit.

Unlawful Carrying of Weapons—H.B. 823

By Representative Keel et al.—Senate Sponsors: Senators Hinojosa and Wentworth

Under current law, Section 46.02 (Unlawful Carrying Weapons), Penal Code, does not apply to a person who is "traveling." The word "traveling" has been given various appellate interpretations, but it has never been defined in statute. This bill:

Clarifies that a person is presumed to be "traveling" if the person is in a private motor vehicle, is not otherwise engaged in criminal activity, is not prohibited by law from possessing a firearm, and is not a member of a criminal street gang.

Provides that when this code or another penal law establishes a presumption in favor of the defendant with respect to any fact, it has certain consequences.

Disposition of Certain Obscene Material and Child Pornography—H.B. 839

By Representative Riddle et al.—Senate Sponsor: Senator Williams

Currently, upon final conviction for an offense involving obscene material or devices, the court is required to order the obscene material to be destroyed or forfeited to the state. However, when such material is not printed material, but is electronic computer images, the statute does not provide for disposal. This bill:

Amends the Code of Criminal Procedure to require that electronic materials and computers used to possess or promote child pornography be forfeited to the state or destroyed upon final conviction.

Requires the court entering a judgment of conviction, following the final conviction of a person for an offense involving child pornography, to order that the child pornography be destroyed or forfeited to the state.

Sets forth certain procedures relating to the destruction or forfeiture of certain material.

Defines "obscene material" and "child pornography."

Exempts providers of an electronic communication service or of a remote computing service to the public from liability for an offense involving obscene material or child pornography on account of any action taken in good faith in providing that service.

Forfeiture of Contraband Used to Facilitate Certain Criminal Offenses—H.B. 840

By Representative Riddle et al.—Senate Sponsor: Senator Williams

Contraband that is used in the commission of a crime is subject to forfeiture and seizure by the state. Vehicles that are used in the commission of a sexual performance by a child, or criminal solicitation of a minor, do not meet the definition of contraband under the current statute. This bill:

Amends the Code of Criminal Procedure by adding to the definition of contraband for the purposes of forfeiture, property of any nature used to facilitate or intended to be used to facilitate the commission of a felony offense of criminal solicitation of a child or of sexual performance by a child.

Sentencing Defendants Convicted of Multiple Offenses—H.B. 904

By Representative Gattis—Senate Sponsor: Senator Ogden

A defendant who receives multiple convictions and sentences in a single trial generally serves those sentences concurrently. In 1997, the 75th Legislature determined that judges should have the discretion to order defendants to serve consecutive sentences for crimes, including intoxication manslaughter and sex offenses (indecent with a child, sexual assault, aggravated sexual assault, prohibited sexual conduct, and sexual performance by a child). This bill:

Adds the offense of intoxication assault to the list of crimes for which judges have the discretion to order a defendant to serve consecutive sentences following a single trial if the accused is found guilty of more than one offense arising out of the same criminal episode.

Adds possession or promotion of child pornography and improper photography or visual recording to the list of crimes for which judges have the discretion to order a defendant to serve consecutive sentences following a single trial if the accused is found guilty of more than one offense arising out of the same criminal episode.

Administration of the Criminal Justice Information System—H.B. 967

By Representative Haggerty—Senate Sponsor: Senator Whitmire

Accurate and complete criminal history records are an important public safety tool and such records are used to screen people prior to various types of employment and before the purchase of firearms. The 71st Legislature, Regular Session, 1989, required the creation of the Texas Criminal Justice Information System (CJIS). This bill:

Requires a court judgment to include the defendant's state identification number and incident number if those numbers have been assigned at the time of the judgment.

Requires a court entering a felony judgment to use the standardized felony judgment form promulgated by the Office of Court Administration.

Removes the county data processing department from the list of departments to receive subsequent arrest information on individuals from the Texas Department of Criminal Justice (TDCJ) and the Department of Public Safety (DPS).

Requires DPS to publish monthly on its website or other electronic publication a report listing each arrest by local jurisdiction for which there is no corresponding final court disposition.

Amends the Transportation Code to require DPS to accept, as satisfactory proof of identity for an application for an original license, an offender identification card or similar form of identification issued to an inmate by TDCJ.

Warning Must be Posted Regarding Identity Theft—H.B. 982

by Representative Reyna—Senate Sponsor: Senator Van de Putte

Patrons of some restaurants and bars have fallen victim to illegal credit card skimming, whereby restaurant or bar wait staff swipe patrons' credit cards into an electronic device and then sell the credit card numbers to individuals who transfer the stolen card information to create counterfeited cards. Credit card skimming is illegal and carries a penalty of up to two years in jail, but some wait staff may not be aware of the penalty. This bill:

Requires restaurants and bars to post a sign warning restaurant and bar employees against fraudulent use or possession of identifying information.

Provides that it is a misdemeanor offense for the restaurant or bar owner to fail to post the sign.

The Offense of Harassment of Public Servant by Inmates—H.B. 1095

By Representative Menendez—Senate Sponsor: Senator Deuell

Section 22.11, Penal Code, provides that it is a third degree felony offense for a person who is incarcerated to cause a person to contact the bodily waste or fluids of the actor, any other person, or an animal. However, this law does not apply to a person who causes bodily wastes or fluids to come into contact with a public servant, such as a police officer or firefighter, who is lawfully discharging his or her duties. This bill:

Provides that a person commits an offense if, with the intent to assault, harass, or alarm, the person causes another person the actor knows to be a public servant to contact the blood, seminal fluid, vaginal fluid, saliva, urine, or feces of the actor, any other person, or an animal while the public servant is lawfully discharging an official duty or in retaliation or on account of an exercise of the public servant's official power or performance of an official duty.

Provides that for the purpose of an offense of causing a public servant to come into contact with certain bodily fluids or wastes, the actor is presumed to have known the person was a public servant if the person was wearing a distinctive uniform or badge indicating the person's employment as a public servant.

Requires the court to order a person who is charged with an offense under Section 22.11, Penal Code, to undergo a medical procedure or test determined to show whether the person has one of certain reportable diseases.

Provides that this article does not permit a court to release a test result to anyone other than those authorized by law, rather than specifically authorized by this law.

Requires the court to order a defendant convicted of an offense under Section 22.11, Penal Code, to make restitution to the victim of the offense or the victim's employer in an amount equal to the sum of any expenses incurred by the victim or employer to test the victim for a reportable disease, or to treat the victim for any reportable disease that the victim contracts as a result of the offense.

Criminalizing Phishing—H.B. 1098

By Representatives McCall and Branch—Senate Sponsor: Senator Zaffirini

Phishing is the use of false e-mail and fraudulent websites intended to dupe recipients into providing personal information, including credit card numbers, social security numbers, and user names and passwords. Advances in technology have made current law insufficient to combat acts of phishing. This bill:

Establishes the Anti-Phishing Act.

Prohibits a person from creating and using certain fraudulent web pages or Internet domain names with the intent to engage in conduct involving the fraudulent use or possession of another person's identifying information.

Prohibits a person, with the intent to engage in conduct involving the fraudulent use or possession of identifying information, from sending or causing to be sent to an electronic mail address held by a resident of this state an electronic mail message that makes certain false representations.

Sets forth persons who are authorized to bring a civil action against a person who violates this Act.

Authorizes a person bringing an action under this section to seek injunctive relief to restrain the violator from continuing the violation, recover financial damages, or both.

Authorizes the court to increase an award of actual damages in an action brought under this section to an amount not to exceed three times the actual damages sustained if the court finds that the violations have occurred with a frequency as to constitute a pattern or practice.

Entitles a plaintiff who prevails in an action filed under this section to recover reasonable attorney's fees and court costs.

Provides that violations are of the same nature if the violations consist of the same course of conduct or action, regardless of the number of times the conduct or act occurred.

Provides that this chapter does not apply to a telecommunications provider's or Internet service provider's good faith transmission or routing of, or intermediate temporary storing or caching of, identifying information.

Defining "Convicted" for Purposes of Carrying a Concealed Handgun—H.B. 1831

By Representative Talton—Senate Sponsor: Senator Hinojosa

Deferred adjudication, which is not a conviction, is a bar to obtaining a concealed handgun license. This bill:

Amends the definition of a "conviction" for purposes of eligibility to carry a concealed handgun.

Allows persons with a deferred adjudication for most felony offenses, except those under Title 5 (Offenses Against a Person) or Chapter 29 (Robbery), Penal Code, to apply for a concealed handgun license ten years after an order of deferred adjudication is entered.

Good Time Credit to Inmates for Certain Time—H.B. 1896

By Representative Hodge et al.—Senate Sponsor: Senator Whitmire

The 77th Legislature, Regular Session, 2001, enacted H.B. 1649, which provided that if an offender's parole, mandatory supervision, or conditional pardon was revoked, the person may be required to serve the remaining portion of the sentence on which the person was released. If, at the issuance of the warrant or summons, the person has not served at least half of the sentence, the person is required to serve the entire sentence in custody. However, if at the issuance of the warrant or summons, the person has served at least half of the parole or mandatory supervision, the person is required to serve only the remaining portion of the sentence in custody. This change affected offenders whose revocation came on or after September 1, 2001. This bill:

Applies retroactively changes made to Section 508.283, Government Code, by the 77th Legislature related to awarding credit to an inmate for time between release and the subsequent revocation of parole, mandatory supervision, or conditional pardon.

Operation of a System of Community Supervision—H.B. 2193

By Representative Madden et al.—Senate Sponsor: Senator Whitmire

In March of 2005, state officials announced that the Texas prison system was at maximum capacity. Texas Department of Criminal Justice (TDCJ) officials requested an additional appropriation to contract with counties and private providers for additional beds as an emergency and temporary measure. The Community Justice Assistance Division (CJAD) of TDCJ reports that Texas probation terms are 67 percent longer than the national average and revocations have increased by 8,000 cases over the last ten years, with 41 percent of revocations in 2004 being technical violations. Capacity issues continue to place a strain on the state's criminal justice agencies. This bill:

Amends sections of the Code of Criminal Procedure relating to the maximum period of community supervision, dismissal and discharge of defendants prior to the expiration of a term of deferred adjudication or community supervision, and the credit of time served by a defendant in certain correctional facilities while on community supervision.

Authorizes the establishment of drug courts, allows drug courts to collect fees from participants, and requires counties with a population of 200,000 or more to establish a drug court program if the county receives federal or state funding.

Requires CJAD to establish a prison diversion pilot program relating to a system of progressive sanctions.

Limits the maximum period of community supervision for a felony of the third degree to five years, unless it is a third degree offense that is violent as defined by Section 3g of the Code of Criminal Procedure, or requires registration as a sex offender.

Provides that the maximum period of community supervision would continue to be 10 years for Section 3g violent offenders, offenders requiring sex offender registration, and offenders with offenses punishable as first or second degree felonies.

Requires a judge to review a defendant's record and consider whether to terminate the period of community supervision on completion of one-half of the original community supervision period.

Authorizes a state jail felon to be considered for early termination.

Requires a person to pay a \$50 court cost on conviction of an intoxication or drug-related offense. Court costs are to be deposited in the county or municipal treasury and sent to the comptroller of public accounts (comptroller) before the last day of the first month following each calendar quarter.

Authorizes a county or municipality to retain 10 percent of the funds collected.

Requires the comptroller to deposit the funds to the credit of the drug court account in the General Revenue Fund to help fund drug courts.

Establishes eligibility for drug court participation for adult and juvenile offenders.

Requires counties with a population of 200,000 or more to establish a drug court program, but only if the county receives federal or state funding specifically for the purpose of establishing a drug court.

Requires the Office of the Attorney General (OAG) to defend a statutory county court judge in an action in state or federal court if the cause of action is the result of the performance of duties related to the Community Supervision and Corrections Department (CSCD) or if the judge requests the OAG's assistance.

Authorizes the State Auditor's Office (SAO) to conduct an audit of a CSCD's accounts, records, receipts, and expenditures.

Prohibits a judge from refusing to terminate a period of community supervision solely on the grounds that a defendant is indigent and unable to pay all fines.

Amends the Government Code to require statutory county court judges trying criminal cases in the county or counties served by a judicial district to participate with judicial district judges in the establishment of the Community Supervision and Corrections Department (CSCD) and approval of the department's budget and community justice plan.

Sets forth the responsibilities of the CSCD director and limits management of the CSCD to the director only.

Prosecution of a State Jail Felony as a Misdemeanor Prosecution—H.B. 2296

By Representative Robby Cook—Senate Sponsor: Senator Armbrister

Currently, a prosecuting attorney may request that a state jail felony offense be prosecuted as a Class A misdemeanor. However, there have been cases where a judge has ruled that even though the offense is punished as a misdemeanor, the charge remains a felony offense. This bill:

Amends and clarifies that a court is authorized, at the request of the prosecuting attorney, to prosecute a state jail felony as a Class A misdemeanor.

Substance Abuse Treatment Facilities and Drug Courts—H.B. 2791

By Representative Hodge—Senate Sponsor: Senator Deuell

Under Chapter 469, Health and Safety Code, counties may establish pre-trial diversion drug treatment courts; however, participants in such programs cannot access treatment in a community corrections facility that operates as a substance abuse treatment facility because they are not under community supervision. This bill:

Authorizes referrals to community corrections facilities and drug court treatment programs under the Treatment Alternatives to Incarceration Program (TAIP).

Requires the Texas Department of Criminal Justice to treat individuals referred by drug court programs in Substance Abuse Felony Punishment Facilities (SAFP), and authorizes the Board of Criminal Justice to modify the SAFP program to properly treat individuals who are not participating in the program as a condition of community supervision.

Requires local judicial districts to treat individuals referred by drug court programs in community corrections facilities.

Education, Vocational Training, and Reintegration of Offenders—H.B. 2837

By Representative Ray Allen—Senate Sponsor: Senator Seliger

While Texas, through Project RIO (Re-Integration of Offenders), has had success reintegrating ex-offenders into the workforce, there are still areas where improved performance is needed. This bill:

Amends various sections of the Labor Code and the Education Code relating to the education, vocational training, and reintegration of offenders.

Requires the Windham School District to:

- develop educational programs specifically designed for certain eligible persons and ensure that those programs are integrated with an applied vocational context leading to employment;
- develop vocational training programs specifically designed for certain eligible persons and prioritize the programs that result in certification or licensure, considering the impact that a previous felony conviction has on the ability to secure certification, licensure, and employment; and
- coordinate educational programs and services in the Texas Department of Criminal Justice (TDCJ) with those provided by other state agencies, by political subdivisions, and by persons who provide programs and services under contract.

Requires the Windham School District to consult with the Legislative Budget Board (LBB) to compile and analyze information regarding offenders who received training while incarcerated, and evaluate the effectiveness of training services provided to persons confined or imprisoned in TDCJ, including an evaluation of:

- the kind of training services provided;
- the kind of employment the person obtains on release;
- whether the employment was related to training;
- the difference between the amount of the person's earnings on the date employment is obtained following release and the amount of those earnings on the first anniversary of that date; and
- the retention factors associated with the employment.

Requires the LBB to submit an annual report to the legislature and the governor's office based on data compiled and analyzed.

Requires the Texas Workforce Commission, the Texas Youth Commission (TYC), and TDCJ to establish a data interface system to assist in the reintegration of offenders into the labor force.

Requires certain agencies to assist in the reintegration into the labor force of persons formerly sentenced to TDCJ or committed to the TYC, to establish a data interface that, at a minimum, provides:

- detailed information about persons released from a correctional facility who might benefit from post-release Project RIO services, including demographic and identifying information;
- the person's address on release;
- a comprehensive state offense history, including the date of release from the correctional facility, sentence discharge date, and conditions of parole;
- assessment information; educational and work history; and
- information related to participation in the work against recidivism program operated by the department's manufacturing and logistics division under the Texas Correctional Industries office, other services provided under this title before release from the correctional facility, and referral information from TDCJ and TYC necessary to implement the provision of post-release employment services.

Requires the data interface to be designed to provide to a person's supervising officer on release information about the person's participation in employment services and entry into the workforce.

Provides that information received from TYC is confidential and is not subject to disclosure under Chapter 552, Government Code.

State Inmate Production of Goods and Services—H.B. 2839

By Representative Ray Allen—Senate Sponsor: Senator Harris

Current law does not allow the Texas Department of Criminal Justice (TDCJ) to contract for the manufacturing or sale of prison-made articles or products to a private or independent institution of higher education and prohibits contracting for inmate labor for commercial services. This bill:

Authorizes TDCJ to contract with a private or independent institution of higher education to sell prison-made products.

Requires contracts made between prisons and private industries to be certified by the Private Sector Prison Industries Oversight Authority as complying with applicable rules, other than a requirement relating to the payment of prevailing wages; that inmate jobs not affect existing jobs of a specific type provided by the contracting party; and be approved by the board.

Limits to 500 the number of work program participants who may participate in programs under contracts.

Preventing the Manufacture and Use of Methamphetamine—S.B. 66

By Senator Nelson—House Sponsor: Representative Driver

Methamphetamine production and abuse is increasing in Texas. This bill:

Requires the Department of State Health Services (DSHS) to implement a methamphetamine watch program to inform retailers of the problems associated with the illicit manufacture and use of methamphetamine and encourage retailers to limit patron accessibility to products used in the illicit manufacture of methamphetamine, including products containing ephedrine or pseudoephedrine.

Requires DSHS to implement the program in consultation with the Department of Public Safety (DPS) and other necessary state agencies.

Requires DSHS to involve retailers, state and local law enforcement agencies, local governments, and community-based organizations in determining the manner in which to implement the program.

Provides that retailer participation in the program is voluntary.

Requires a retailer participating in the program to make reasonable efforts to deter the theft or improper sale of products used in the illicit manufacture of methamphetamine, including products containing ephedrine or pseudoephedrine, by implementing product management practices that deter theft or suspicious purchases of the products, including limiting the quantity of the products on display for purchase, limiting the quantity of the products that may be purchased, and placing the products in high-traffic areas; placing signs adjacent to the products and at checkout counters to inform patrons of the retailer's participation in the program; and providing annual personnel training.

Requires DSHS, in consultation with DPS and local law enforcement agencies, to establish guidelines for retailers and retail personnel to make, in good faith, reports of theft, suspicious purchases, or other transactions involving products used in the illicit manufacture of methamphetamine.

Requires the guidelines to be designed to ensure that reports are made to law enforcement agencies only under circumstances that are believed to reasonably justify a criminal investigation, and a person is not encouraged to maintain any record of purchases that are made or other transactions that occur for apparently legitimate purposes.

Provides that a person is not liable for damages, other than economic damages, from an act relating to the reporting of information made in good faith and in accordance with the guidelines.

Provides that a person commits an offense if the person knowingly makes a report or causes a report to be made to a law enforcement agency of a theft, suspicious purchase, or other transaction involving a product used in the manufacture of methamphetamine and the person knows the report is false.

Requires DSHS, in administering human services programs related to substance abuse, to administer, coordinate, and contract for the delivery of programs designed to prevent the use of methamphetamine among students enrolled in schools in this state; and provide education to appropriate school personnel and parents of school-age children on identifying and helping children who use methamphetamine or who are exposed to chemicals and other hazardous materials used to manufacture methamphetamine.

Requires the Office of the Texas State Chemist of the Texas Agricultural Experiment Station (office), in cooperation with other state agencies, to distribute materials used to educate certain persons regarding the use of anhydrous

ammonia in the illicit manufacturing of methamphetamine; and practices and equipment that can be used to deter theft of anhydrous ammonia.

Requires the office, in the materials distributed, to encourage local law enforcement and community groups to cooperate in deterring the theft of anhydrous ammonia.

Requires the Department of Family and Protective Services (DFPS) to establish a drug-endangered child initiative aimed at protecting children who are exposed to methamphetamine or to chemicals and other hazardous materials used in illicit manufacture of methamphetamine.

Requires DPS and each local law enforcement agency to report to DFPS on discovering the presence of a child in a location where methamphetamine is manufactured, as long as the reporting does not interfere with an ongoing criminal investigation.

Arrest and Punishment for Certain Violent Offenses—S.B. 91

By Senators Hinojosa and Ellis—House Sponsor: Representative Riddle

Under current law, a person convicted of assault against a family or household member who then recommit the act can be charged with third degree felony assault. If the offender is convicted only of simple assault, a prior felony conviction cannot be used to enhance the second offense. This bill:

Clarifies the conditions for which the offense of assault is punishable as a felony of the third degree.

Adds to the conditions for which the offense of aggravated assault is punishable as a felony of the first degree.

The Effect of an Expunction—S.B. 166

By Senator West—House Sponsor: Representative Keel

Under current law, persons who have been acquitted at trial, pardoned, or for whom no case was presented for trial, with exceptions, are entitled to have their records expunged. This differs from persons who may apply for an order of non-disclosure, which in effect “seals” the record of a person who has been placed on deferred adjudication, has successfully completed a period of community supervision, and has had the charge dismissed. An enactment of the 78th Legislature made orders of nondisclosure possible, but also amended the expunction statutes and unintentionally allowed the Department of Public Safety (DPS) to maintain records that have been ordered by a court to be expunged and to make the records public to criminal justice and certain noncriminal justice agencies. This bill:

Prohibits the release, maintenance, dissemination, or use of expunged records and files for any purpose upon a final order of expunction.

Directs DPS to take action as soon as practicable to ensure compliance with the prohibition of any release of information under the Act, including the destruction of any information that was maintained by DPS solely to comply with current law.

Assignment of Students Committing Sexual or Aggravated Assault—H.B. 308

By Representative Hope—Senate Sponsor: Senator Staples

Currently, a student who had been the victim of an assault committed by another student could be assigned to the same classroom or campus as the perpetrator. This bill:

Allows school districts, upon the request of a parent of a student subjected to sexual or aggravated assault by another student, to transfer the victim of the assault, after resolution of the criminal complaint, to another acceptable campus, a campus other than the campus to which the perpetrator is assigned, or to a neighboring school district when only one campus is available for that grade; or at the request of the victim's parent, to assign the perpetrator of the assault to another campus or the district's disciplinary alternative education program (DAEP), when only one campus is available for that grade.

Requires a district, to the extent permitted under federal law, to notify parents of a victim of the campus or program assignment of the perpetrator.

Requires a district to assign a student who committed sexual assault against another student to a DAEP or a juvenile justice alternative education program and removes any limitation on the length of assignment to either program.

Relating to Juvenile Delinquency—H.B. 1575

By Representatives Dutton and Goodman—Senate Sponsor: Senator West

The juvenile justice system has increased in size, sophistication, and complexity since the reforms made by the 74th Legislature in 1995. This bill:

Amends the Family Code, Human Resources Code, Code of Criminal Procedure, Penal Code, Education Code, Alcoholic Beverage Code, and Transportation Code regarding the handling of cases in the juvenile justice system and the operation of juvenile programs.

Amends requirements related to the transfer of probation supervision between counties for interim and permanent supervision and the inter-county transfer of supervision of juvenile offenders on juvenile probation who move away from the county where they were adjudicated.

Amends juvenile court provisions to provide for the funding and employment of juvenile case managers for justice and municipal courts.

Makes it a third degree felony to provide or attempt to provide controlled substances and other contraband items to juvenile offenders in secure juvenile correctional or detention facilities.

Amends provisions related to the screening and referral of juvenile offenders with mental illness to mental health authorities.

Restricts access to the Texas Juvenile Probation Commission's (TJPC) statistical and research information.

Authorizes the Texas Youth Commission (TYC) to release juvenile offenders with determinate sentences to parole without approval of the juvenile court if no more than nine months remain on the offender's sentence.

Redefines "traffic offense" in the Juvenile Justice Code by excluding from its definition any offense that is punishable by imprisonment or confinement in jail.

Clarifies that the affirmative defense of excused absences or involuntary absences in truancy or failure-to-attend-school proceedings is effective only when there are insufficient unexcused or voluntary absences remaining to constitute a violation of law.

Authorizes a magistrate who is giving juvenile warnings for a videotaped interrogation to require the officer to return the child and videotape to the magistrate for a determination of voluntariness. If a magistrate uses this procedure, a child's statement is not admissible unless the magistrate determines that the statement was given voluntarily.

Authorizes a probation officer to take a child into custody if there is probable cause to believe the child violated the conditions of release imposed by a juvenile court or referee.

Authorizes a court to issue a bench warrant or direct that an attachment issue to require a peace officer or probation officer to secure custody of a youth witness who is in custody of TYC or another secure juvenile detention or correctional facility. Once the person is no longer needed as a witness, the peace officer or probation officer must be ordered to return the youth to the placement. The youth may be ordered held in the county juvenile detention facility if younger than 17 or, if at least 17, held without bond in an appropriate county facility for the detention of adults accused of criminal offenses.

Authorizes video hearings for initial detention hearings as well as for subsequent ones.

Requires that the same findings required to be made by a judge in a disposition hearing (that it is in the child's best interest to be placed outside the child's home; that reasonable efforts were made to prevent or eliminate the need for the child's removal from home and to make it possible for the child to return home; and that the child, in the child's home, cannot be provided the quality of care and level of support and supervision the child needs to meet the conditions of probation) be made by a judge when modifying a prior disposition to order the child's removal from home.

Authorizes the judge to approve an administrative body to conduct a permanency hearing under federal law if it is required during the child's placement or commitment.

Eliminates the requirement that the Department of Public Safety (DPS) certify to the juvenile court that records are eligible for sealing and makes any records collected or maintained by TJPC, including statistical data, not subject to a sealing order.

Requires that an application for sealing of juvenile records and an order for sealing include the applicant's full name, gender, race or ethnicity, date of birth, driver's license or identification card number, and social security number and include the offense for which the applicant was charged or referred, the date of the offense and county of occurrence, and the cause number and county of any petition filed. An explanation must be included for any missing information.

Clarifies that TJPC information in any form or medium that is collected and maintained for statistical and research purposes is confidential and may not be disseminated by the commission except for research and statistical purposes or other purposes approved by the commission to criminal justice agencies, the Texas Education Agency, a health and human services agency, or a public or private university; sets forth the procedures and requirements authorizing access for limited purposes that ensures confidentiality of the information; and establishes sanctions for violations.

Sets forth procedures and adds to the information required to be given a child on final discharge regarding automatic restricted access to records.

Eliminates certain mandatory language related to the establishment of local juvenile justice information systems to make the statutory framework more flexible with regard to partner agencies and components of the system.

Authorizes a juvenile court that entered an order against a parent or other eligible person to transfer that order to the county to which a child has moved (or intends to move) and where interim or permanent supervision has been established if the parent or other eligible person will reside in the same county as the child. Sets forth procedures regarding such transfers.

Adds special abuse or neglect reporting requirements for certain professionals in reference to the definition of abuse and neglect that relates to state agency investigations.

Requires that as soon as practicable after a child is taken into custody or placed in a juvenile justice facility or program that the child's parents be provided with information regarding the reporting of suspected abuse, neglect or exploitation in TJPC and with the commission's toll-free number for this reporting.

Prohibits a minor who is at least 17 years of age from receiving deferred adjudication for driving under the influence of alcohol by a minor or for an alcohol-related offense if the minor has been previously convicted of the same offense twice.

Authorizes electronic notification to schools of offenses alleged to have been committed by students.

Clarifies that juveniles who are in the custody of the TYC or another secure juvenile correctional facility may be witnesses in criminal or civil proceedings upon the issuance of a subpoena or bench warrant and requires law enforcement or probation officers to transport the witness to and from the court.

Allows a youth to be held in the county juvenile detention facility or, if the youth is 17 years of age or older, in the county jail.

Requires a parent to attend justice and municipal court proceedings against the parent's child in conformity with related law.

Authorizes TYC to refer a paroled youth with a determinate sentence to the juvenile court for a prison transfer hearing if there is a juvenile court adjudication or criminal court conviction for a felony offense while the youth was on parole or a determination revoking the youth's release under supervision is required before referral of the youth to the juvenile court.

Amends minimum standards for detention officers.

Clarifies that the chief administrative officer of a juvenile probation department may not be a person who is employed by or who reports directly to a law enforcement or prosecution official; defines the chief administrative officer as a person hired or appointed by or under contract with a juvenile board and responsible for the oversight of the operations of a juvenile probation department or any juvenile justice program operated by or under the authority of the juvenile board.

Authorizes a juvenile offender charged with injury to a child to assert a defense to the charges when they were no more than three years older than the victim and the victim was a child 14 years of age or younger at the time of the offense.

Makes it a felony of the third degree, with exceptions, to:

- provide or attempt to provide an alcoholic beverage, controlled substance, dangerous drug, deadly weapon, cellular phone, cigarette, tobacco product, or money to a youth in a secure juvenile correctional or detention facility;
- take or attempt to take an alcoholic beverage, controlled substance, or dangerous drug into a secure juvenile correctional or detention facility;
- take a controlled substance or dangerous drug on property owned, used, or controlled by TYC or by any secure juvenile correctional or detention facility; and
- possess a controlled substance or dangerous drug on property owned, used, or controlled by TYC or by any secure juvenile correctional or detention facility or possess a deadly weapon in a secure juvenile correctional or detention facility.

Provides an affirmative defense to prosecution if a person is in possession of a personal prescription issued by a practitioner or in possession while delivery to a warehouse, pharmacy, or physician on property owned and operated by TYC or by any secure juvenile correctional or detention facility or if the actor is a duly authorized member of clergy and consumes an alcoholic beverage or departs from the facility with a portion not consumed during religious services.

State Assistance and Other Matters Related to Sex Offenders—H.B. 867

By Representative Ray Allen—Senate Sponsor: Senator Shapiro

The sex offender registration statute has become cumbersome and difficult to manage, necessitating reevaluation and modification. This bill:

Reorganizes the sex offender registration statute.

Provides that this chapter applies only to a reportable conviction or adjudication occurring on or after September 1, 1970.

Provides that the duties imposed on a person required to register under this chapter on the basis of a reportable conviction or adjudication, and the corresponding duties and powers of other entities in relation to the person required to register on the basis of that conviction or adjudication, are not affected by an appeal of the conviction or adjudication or a pardon of the conviction or adjudication.

Provides that, if a conviction or adjudication that is the basis of a duty to register is set aside on appeal by a court or if the person required to register under this chapter on the basis of a conviction or adjudication receives a pardon on the basis of subsequent proof of innocence, the duties imposed on the person and the corresponding duties and powers of other entities in relation to the person are terminated.

Requires the Texas Department of Public Safety (DPS), annually, to provide or make available certain information to each prosecuting attorney's office in this state.

Requires DPS, for each person subject to registration, to determine which local law enforcement authority serves as the person's primary registration authority.

Requires DPS to maintain a computerized central database containing the information required for registration, including the numeric risk level assigned to a registrant.

Provides that the information contained in the database, including the numeric risk level assigned to a person under this chapter, is public information, with certain exceptions.

Requires DPS to maintain in the database, update annually, and post on a DPS website, any photograph of the person that is available through the process for obtaining or renewing a personal identification certificate or driver's license.

Requires a local law enforcement authority to release public information to any person who requests the information from the authority. Authorizes the authority to charge the person a fee not to exceed the amount reasonably necessary to cover the administrative costs associated with the authority's release of information to the person.

Requires DPS to provide a licensing authority with notice of any person required to register who holds or seeks a license that is issued by the authority as the applicable licensing information becomes available through the person's registration or verification of registration.

Requires DPS, within three days, to send notice of any person required to register who is or will be employed, carrying on a vocation, or a student at a public or private institution of higher education in this state, to certain authorities, for an institution in this state, and to any existing authority for campus security at the institution, for an institution in another state.

Requires DPS to establish a procedure by which a peace officer or employee of a law enforcement agency who provides DPS with a driver's license number, personal identification certificate number, or license plate number is automatically provided information as to whether the person to whom the driver's license or personal identification certificate is issued is required to register.

Requires the Texas Department of Criminal Justice (TDCJ) to establish a risk assessment review committee (review committee) to function in an oversight capacity.

Requires the sex offender screening tool required to be used in determining the level of risk of a person subject to registration to use an objective point system under which a person is assigned a designated number of points for each of various factors. Requires the review committee, in developing or selecting the sex offender screening tool, to use or select a screening tool that may be adapted to use specific guidelines.

Authorizes the review committee, TDCJ, the Texas Youth Commission (TYC), or a court to override a risk level only if the entity believes that the risk level assessed is not an accurate prediction of the risk the offender poses to the community and documents the reason for the override in the offender's case file.

Requires records and files, including juvenile records that have been sealed, relating to a person for whom a court, TDCJ, or TYC is required to determine a level of risk, to be released to the court, TDCJ, or TYC, as appropriate, for the purpose of determining the person's risk level.

Authorizes disclosure of certain information to the public.

Establishes immunity for certain actions by certain persons.

Requires a person to satisfy the registration requirements not later than the later of the seventh day after the person's arrival in the municipality or county or the first date the local law enforcement authority of the municipality or county by policy allows the person to register or verify registration as applicable.

Sets forth registration and verification requirements for an extrajurisdictional registrant.

Amends the specific prerelease requirements for an official of a penal institution.

Amends the specific requirements for a person required to registration under this chapter who has a change of address.

Requires DPS, if a person who is released or who moves is assigned a risk level of three, to provide written notice, mailed or delivered, to at least each address, other than a post office box, within a one-mile radius, within a certain number of days after the person is released or moves. Authorizes a local law enforcement authority, upon receipt of notice that a person subject to registration is required to register or verify registration with the authority and has been assigned a risk level of three, to provide notice to the public in the manner determined appropriate by the authority, including publishing notice in a newspaper or other periodical or circular in circulation in the area where the person intends to reside.

Requires a person required to register to comply with a request made by a law enforcement agency for a DNA specimen.

Prohibits a local law enforcement agency, with exceptions, from publishing notice in a newspaper or other periodical or circular concerning a person's registration if the only basis on which the person is subject to registration is one or more adjudications of delinquent conduct.

Provides that the duty to register for a person ends when the person dies if the person has a reportable conviction or adjudication, other than an adjudication of delinquent conduct, for certain offenses.

Provides that the duty to register for certain registrants ends on the 10th anniversary of the date on which the person is released from a penal institution or discharges community supervision of the court dismisses the criminal proceedings against the person and discharges the person, whichever date is later, if the person's duty to register is based on a conviction or an order of deferred adjudication in a cause that was transferred to a district court or criminal district court.

Provides that the duty to register for a person with a reportable conviction or adjudication for an offense other than those specific offenses ends, if the person's duty to register is based on an adjudication of delinquent conduct, on the 10th anniversary of the date on which the disposition is made or the person completes the terms of the disposition, whichever date is later, or, if the person's duty to register is based on a conviction or an order of deferred adjudication, on the 10th anniversary of the date on which the court dismisses the criminal proceedings against the person and discharges the person, the person is released from a penal institution, or the person discharges community supervision, whichever date is later.

Provides that, if it is shown at the trial of a person for an attempt to commit an offense that the person has previously attempted to commit an offense, the punishment for the attempt to commit the offense is increased to the punishment for the next highest degree of felony.

Provides that the duty to register for a certain person ends when the person no longer works or studies in this state, provides notice of that fact to the local law enforcement authority in the municipality or county in which the person works or attends school, and receives notice of verification of that fact from the authority. Requires the authority to verify that the person no longer works or studies in this state and to provide to the person notice of that verification within a reasonable time.

Provides that, notwithstanding Subsection (a), this article does not apply to a person who has a reportable conviction or adjudication, who resides in another state, and who is employed, carries on a vocation or is a student in this state if the person establishes another residence in this state to work or attend school in this state. Provides that the person does remain subject to the other provisions based on that person's residence in this state.

Requires a person required to register under certain provisions of this Act who is employed, carries on a vocation, or is a student at a public or private institution of higher education in this state, not later than the later of the seventh day after the date on which the person begins to work or attend school or the first date the applicable authority by policy allows the person to register, to report that fact to certain authorities.

Requires such a person described to notify the authority for campus security or the local law enforcement authority not later than the seventh day after the date of termination of the person's status as a worker or student at the institution.

Requires the authority for campus security or the local law enforcement authority to promptly forward to the administrative office of the institution any information received from the person under this article and any information received from the department.

Requires DPS, on receipt of notice that a person subject to registration who is civilly committed as a sexually violent predator is due to be released from a penal institution or intends to move to a new residence in this state, to, not later than the seventh day after the date on which the person is released or the seventh day after the date on which the person moves, provide written notice mailed or delivered to at least each address, other than a post office box, within a one-mile radius, in an area that has been subdivided, of the place where the person intends to reside.

Requires DPS to provide the notice in English and Spanish and to include in the notice certain information.

Requires DPS to establish procedures for a person with respect to whom notice is provided to pay to DPS all costs incurred by DPS in providing the notice. Requires the person to pay those costs in accordance with the procedures established under this Act.

Provides that DPS's duty to provide notice in regard to a particular person ends on the date on which a court releases the person from all requirements of the civil commitment process.

Requires an individual subject to registration under this chapter who is civilly committed as a sexually violent predator to report to the local law enforcement authority designated as the person's primary registration authority by DPS not less than once in each 30-day period following the date the person first registered to verify the information in the registration form maintained by the authority for that person.

Requires DPS, when a person is no longer required to register as a sex offender under certain conditions to remove all information about the person from the sex offender registry.

Authorizes certain persons required to register under the Act to petition the court having jurisdiction over the case for an order exempting the person from registration at any time after the person's sentencing or after the person is placed on deferred adjudication community supervision.

Provides that a person is eligible to petition the court if the person is required to register only as a result of a single reportable conviction or adjudication, other than an adjudication of delinquent conduct, and the court has entered in the appropriate judgment or has filed with the appropriate papers a statement of an affirmative finding described by Article 42.017 or Section 5(g), Article 42.12.

Provides that a defendant, who before September 1, 2001, is convicted of or placed on deferred adjudication community supervision for an offense under Section 21.11 (Indecency With A Child), 22.011 (Sexual Assault), 22.021 (Aggravated Sexual Assault), or 43.25 (Sexual Performance by a Child), Penal Code, is eligible to petition the court. Authorizes the court to consider the petition only if the petition states and the court finds that the defendant would have been entitled to the entry of an affirmative finding under Article 42.017 or Section 5(g), Article 42.12, as appropriate, had the conviction or placement on deferred adjudication community supervision occurred after September 1, 2001.

Authorizes the court, after a hearing on the petition, to issue an order exempting the person from registration under this chapter if it appears by a preponderance of the evidence as presented by a registered sex offender treatment provider, that the exemption does not threaten public safety and that the person's conduct did not occur without the consent of the victim or intended victim as described by Section 22.011(b) (Sexual Assault), Penal Code.

Provides that an order exempting the person from registration does not expire, but requires the court to withdraw the order if after the order is issued the person receives a reportable conviction or adjudication.

Requires the juvenile court on motion of the respondent, during or after disposition of a case for adjudication of an offense for which registration is required, to conduct a hearing to determine whether the interests of the public require registration. Sets forth the procedures for such hearings.

Authorizes a person who has registered as a sex offender for an adjudication of delinquent conduct, regardless of when the delinquent conduct or the adjudication for the conduct occurred, to file a motion in the adjudicating juvenile court for a hearing seeking exemption from registration or an order that the registration become nonpublic. Sets forth the procedures for such hearings.

Authorizes a person required to register as a sex offender in this state because of an out-of-state adjudication of delinquent conduct to file in the juvenile court of the person's county of residence a petition for an order exempting the person from registration. Authorizes a person, if the person is already registered as a sex offender in this state because of an out-of-state adjudication of delinquent conduct, to file in the juvenile court of the person's county of residence a petition for an order removing the person from sex offender registries in this state. Sets forth the procedures for such hearings.

Sets forth the procedures for certain waiver proceedings.

Provides that a person who has an adjudication of delinquent conduct that would otherwise be reportable does not have a reportable adjudication of delinquent conduct if the juvenile court enters an order exempting the person from the registration requirements and prohibits the respondent, if the juvenile court enters an order exempting a person from registration, from being required to register in this or any other state for the offense for which registration was exempted.

Sets forth the procedures for appealing registration-related decisions.

Requires the Council on Sex Offender Treatment (council) by rule to determine the minimum required registration period under 42 U.S.C. Section 14071 (Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program) for each reportable conviction or adjudication, if this state is to receive the maximum amount of federal money available to a state as described by that law, to compile and publish a list of reportable convictions or adjudications for which a person must register for a period that exceeds the minimum required registration period under federal law, and, to the extent possible, to periodically verify with the Bureau of Justice Assistance or another appropriate federal agency the accuracy of the list of reportable convictions or adjudications.

Requires the council by rule to establish, develop, or adopt an individual risk assessment tool or a group of individual risk assessment tools that meet specific requirements. Sets forth the procedures for the use of the risk assessment tool.

Authorizes a person required to register who has requested and received an individual risk assessment to file with the trial court that sentenced the person for the reportable conviction or adjudication a motion for early termination of the person's obligation to register. Sets forth the procedures for early termination proceedings.

Provides that early termination proceedings do not apply to a person without a reportable conviction or adjudication who is required to register as a condition of parole, release to mandatory supervision, or community supervision.

Authorizes an offense under Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure, to be prosecuted in any county in which an element of the offense occurs, the county in which the person subject to Chapter 62 last registered, verified registration, or otherwise complied with a requirement of Chapter 62, the county in which the person required to register under Chapter 62 has indicated that the person intends to reside, or any county in which the person required to register under Chapter 62 is placed under custodial arrest for an offense subsequent to the person's most recent reportable conviction or adjudication under Chapter 62.

Requires DPS by rule to require a law enforcement agency serving as a person's primary registration authority under Chapter 62, Code of Criminal Procedure, to take one or more specimens from a person for the purpose of creating a DNA record and preserve the specimen and maintain a record of the collection of the specimen. Sets forth the collection procedures for such specimens.

Prohibits the Health and Human Services Commission, to the maximum extent allowable under federal law, from providing sexual performance enhancing medication under the Medicaid vendor drug program or any other health

and human services program to a person required to register as a sex offender under Chapter 62, Code of Criminal Procedure.

Regulation of Sex Offender Treatment Providers—H.B. 2036

By Representative Ray Allen—Senate Sponsor: Senator Shapiro

Under current law, a person does not have to be registered with the Council on Sex Offender Treatment in order to provide treatment to sex offenders. As a result, there are no governing rules or a standard of practice in the treatment of sex offenders. This bill:

Increases to seven members the Council on Sex Offender Treatment (council).

Provides that information concerning the treatment of a sex offender includes: criminal history; the discharge summary; the official offense report; progress reports; test results; victim statements; and any other information necessary for the treatment of the sex offender.

Creates a mandatory regulatory structure for sex offender treatment providers.

Requires the council to maintain a list of sex offender treatment providers, rather than a registry, and to develop and implement, by rule, license registration requirements.

Prohibits a person from providing a rehabilitation service or acting as a sex offender treatment provider unless the person is licensed.

Prohibits a person from claiming to be a sex offender treatment provider, or using the title "sex offender treatment provider" or a similar title or an abbreviation that implies the person is a sex offender treatment provider, unless the person is licensed.

Requires the council, in developing the rules, to coordinate with the Texas Department of Criminal Justice (TDCJ), the Texas Youth Commission (TYC), and the Texas Juvenile Probation Commission.

Authorizes the Texas Board of Criminal Justice or the governing board of TYC to vote to exempt employees of TDCJ or TYC, as appropriate, from a specific licensing requirement imposed under this section if the board determines that the requirement causes financial or operational hardship on the agency.

Establishes provisions for hearings, penalties, and license suspensions for sex offender treatment providers.

Establishes the Dynamic Risk Assessment Pilot Program for adult sex offenders who are treated in counties with populations of one million or more, with costs incurred to be paid by the probationer, and requires the council to work directly with appropriate entities to develop, implement, research, and deploy dynamic risk assessment tools and protocols for use by persons licensed under this Act.

Requires the council, not later than November 1, 2006, to report to the criminal justice division of the governor's office on the progress of implementing the pilot program.

Requires the report to include information on the program's use of all dynamic risk assessment tools, including plethysmograph and visual reaction time assessments, and the use of dynamic risk assessment protocols.

Requires the council, after filing the report, to work with the Legislative Budget Board to study the recidivism of sex offenders treated under the pilot program, including a study comparing the various dynamic risk assessment tools and protocols.

Provides that a person who holds a registration issued under Chapter 110, Occupations Code, on the effective date of this Act is considered to hold a license under Chapter 110, Occupations Code, as amended by this Act. Provides that all provisions of Chapter 110, Occupations Code, including renewal requirements, apply to the person as if the person was issued a license under that chapter.

Creation of the Offense of Online Sexual Solicitation of a Minor—H.B. 2228

By Representative McCall et al.—Senate Sponsor: Senator Ellis

Individuals who arrange a meeting over the Internet with a minor for the purposes of sexual activity must first physically appear at the meeting place in order to be charged with a crime, making prosecution of sexual predators difficult. This bill:

Provides that a person who is 17 years of age or older commits an offense if, with the intent to arouse or gratify the sexual desire of any person, the person, over the Internet or by electronic mail or a commercial online service, intentionally communicates in a sexually explicit manner with a minor; or distributes sexually explicit material to a minor.

Provides that a person commits an offense if the person, over the Internet or by electronic mail or a commercial online service, knowingly solicits a minor to meet another person, including the actor, with the intent that the minor will engage in sexual contact, sexual intercourse, or deviate sexual intercourse with the actor or another person.

Establishes that it is not a defense to prosecution that the meeting did not occur, the actor did not intend for the meeting to occur, or the actor was engaged in a fantasy at the time of commission of the offense.

Provides that it is a defense to prosecution that at the time the conduct was committed the actor was married to the minor; or the actor was not more than three years older than the minor and the minor consented to the conduct.

Provides that an offense under this Act may be a state jail felony, a felony of the third degree, or a felony of the second degree if the minor is younger than 14 years of age or is an individual whom the actor believes to be younger than 14 years of age.

Authorizes the actor, for conduct that constitutes an offense under this Act that also constitutes an offense under any other law, to be prosecuted under this Act, the other law, or both.

Defines "reportable conviction or adjudication" to include a conviction or adjudication, regardless of the pendency of an appeal, for certain specified offenses including, among others, indecency with a child, sexual assault, aggravated sexual assault, prohibited sexual conduct, compelling prostitution, sexual performance by a child, or possession or promotion of child pornography.

Civil Commitment of Sexually Violent Predators—S.B. 912

By Senator Shapiro—House Sponsor: Representative Ray Allen et al.

Current law allows for the civil commitment of sexually violent predators, but restricted application of the law to a few enumerated offenses has limited its effectiveness by failing to take into consideration sexually violent predators who

commit other serious offenses that may be motivated by a sexually violent impulse, but do not contain the element in the legal charge of conviction. These sexually violent predators are currently outside the civil commitment process. This bill:

Expands the scope of the civil commitment process to include as sexually violent predators some inmates who have been convicted of committing or attempting to commit a "sexually motivated" murder or capital murder.

Requires the Texas Department of Criminal Justice (TDCJ), before the person's anticipated release date, to give to the multidisciplinary team written notice of a person: who is serving a sentence for a sexually violent offense and may be a repeat sexually violent offender.

Requires a judge to impose restrictions upon a person to ensure compliance with the person's outpatient civil commitment, including requiring the person to reside in a Texas residential facility under contract with the Council on Sex Offender Treatment (council) or at another location or facility approved by the council.

Provides that the court, rather than the judge, retains jurisdictions of the case with respect to a civil commitment proceeding conducted under Subchapters F (Commitment Review) and G (Petition for Release).

Requires the council to enter into appropriate memoranda of understanding with the Texas Department of Public Safety (DPS) for the provision of a tracking service and for assistance in the preparation of criminal complaints, warrants, and related documents and in the apprehension and arrest of a person.

Requires the council to provide through the case management system any supervision or tracking service required under this chapter for persons residing in Dallas, Harris, or Tarrant counties.

Requires the council to provide the tracking service under this subsection through two employees of the Department of State Health Services (DSHS). Requires any tracking personnel used by DSHS for purposes of this chapter to be approved by the council.

Requires DPS or the council, as appropriate, if the equipment necessary to implement the tracking service is available through a contract by the Texas Building and Procurement Commission, to acquire equipment through that contract.

Requires the council to enter into appropriate memoranda of understanding for any necessary supervised housing.

Requires the council to reimburse the applicable provider for housing costs under this provision. Prohibits the committed person from being housed for any period of time in a mental health facility, state school, or community center, unless the placement results from a commitment of the person to that facility, school, or center by governmental action.

Authorizes a person who is examined under this chapter to retain, at the person's own expense, an expert to perform an examination or participate in a civil commitment proceeding on the person's behalf, including a biennial examination or other civil commitment proceeding to assess the person's status as a sexually violent predator. Requires a judge to approve compensation for an expert as appropriate.

Provides that the duties imposed by this chapter are suspended for the duration of any confinement of a person, or any commitment of a person to a community center, mental health facility, or state school, by governmental action.

Credit Scoring and Credit History by Certain Service Providers—H.B. 412

By Representative Turner et al.—Senate Sponsor: Senator Van de Putte

Credit scoring and credit history are used by a few institutions and industries to determine service approval and/or costs. The need for telecommunications and electric service make the use of credit scoring and credit history in denying service a policy issue. This bill:

Ensures fair pricing and service in the telecommunications and electric industries for people throughout the economic spectrum.

Defines "credit history" as not including an individual's outstanding balance for retail electric services or telecommunications services, so that this Act will provide protection to the consumers, without protecting those who are "gaming" the system.

Prohibits the use of credit scoring and credit history in the denying or pricing of service to a buyer or potential buyer of basic telecommunications service.

Authorizes the provider of basic telecommunications services to require a deposit, advance payment, or credit limit as a condition of service.

Processing Consumer Rebates—H.B. 511

By Representative Hochberg et al.—Senate Sponsor: Senator Van de Putte

Most companies promise to process rebate requests in eight to 10 weeks; however, existing state law does not provide any remedy when a consumer does not receive a response to a rebate request or the rebate is denied after the rebate program has ended. This bill:

Requires a person, including a manufacturer or retailer, who offers a rebate, to either mail or electronically pay the amount of the rebate to the consumer within the time period promised in the rebate information provided to the consumer, or not later than the 30th day after the date the company receives a properly completed rebate request.

Provides that if the request is not correctly completed, the company must either pay the rebate or notify the consumer of any errors and provides the consumer an additional 30 days to correct and resubmit the request for processing.

Debt Created Due to Identity Theft—H.B. 628

By Representative Giddings—Senate Sponsor: Senator Ellis

Currently, Texas law allows debt collection agencies to repeatedly contact a person in whose name a debt has been incurred. However, the law does not appropriately address the situation of a debt that was created in the course of identity theft. Thus, debt-collectors may vigorously pursue a person who has been a victim of identity theft for a debt that person never actually owed. This bill:

Prohibits a debt collector from using unfair or unconscionable means in debt collection that employ certain practices, including collecting or attempting to collect an obligation under a check, draft, debit payment, or credit card payment, if certain circumstances related to identity theft apply.

Provides that a debt collector is not prohibited from collecting or attempting to collect an obligation under a check, draft, debit payment, or credit card payment if the debt collector has credible evidence, including a document, video

recording, or witness statement, that the report filed with a law enforcement agency is fraudulent and that the check, draft, or payment was authorized.

Disposal of Business Records Containing Personal Information—H.B. 698

By Representative McCall—Senate Sponsor: Senator Averitt

Identity theft is one of the fastest growing crimes in the nation and Texas has one of the highest rates of identity theft in the country. Many identity theft crimes are committed by thieves who obtained records containing personal information out of trash receptacles. Currently, Texas law does not address how a business must dispose of a business record containing personal information. This bill:

Defines "personal identifying information" and "telecommunication access device."

Requires a business disposing of business records containing customers' personal identifying information to render the personal identifying information unreadable or undecipherable.

Authorizes a business to contract with a person engaged in the business of disposing of records to comply with this act.

Provides for a civil penalty of up to \$500 for each record for violations of the act.

Authorizes the attorney general to bring an action against the business to recover the civil penalty and obtain certain remedies.

Exempts a business from liability if that business modifies a record as required by the act and the record is reconstructed through extraordinary means.

Provides this act does not apply to records that:

- the business is required to retain under law; or
- are historically significant and meet certain criteria.

Exempts certain financial institutions and other entities from the act.

Consumer Tracking and Return of Merchandise—H.B. 853

By Representative Solomons et al.—Senate Sponsor: Senator Harris

Many national retailers have begun to use outside companies to compile consumer information, including a person's name and driver's license number, to place into national databases. These databases are intended to be used to prevent frequent returns by tracking consumers who make a habit of returning merchandise. This bill:

Provides that merchants who require consumers to provide a driver's license or social security number when returning merchandise must use that information for identification purposes only.

Revising Texas Banking and Lending Laws—H.B. 955

By Representative Solomons—Senate Sponsor: Senator Averitt

Technology and changes in the banking and lending laws of other states and by the federal government have limited the ability of Texas depository institutions to compete in the area of financial services. Consumers also must be protected from unscrupulous, predatory lending practices. This bill:

Sets out certain consumer credit protections:

- Bars creditors regularly engaged in the business of extending credit primarily for personal, family, or household use from false, misleading, or deceptive advertising representation relating to rates, terms, or conditions of credit transactions;
- Provides that this prohibition does not create a private right of action;
- Sets out guidelines for administrative agencies or courts interpreting these provisions;
- Provides that in the event of a conflict between these provisions and federal law, federal law controls;
- Provides that a creditor who complies with certain federal provisions has complied with these provisions; and
- Provides that a judgment or other resolution of a violation asserted by a federal agency under the federal Consumer Credit Protection Act bars a subsequent action.

Provides for the assessment of civil penalties for discrimination in the extension of credit based on certain characteristics of the individual.

Requires certain unlicensed, registered, or otherwise exempt creditors regularly engaged in the business of extending credit under primarily for personal, family, or household use to comply with certain federal fair trade practices.

Makes various changes to the state's usury laws:

- Provides that interest, as defined under the state's usury law, does not include other amounts that are determined by applicable law not to constitute interest or are permitted in addition to interest in connection with an extension of credit.
- Removes limitations regarding ceilings on the interest on certain credit transactions.
- Authorizes banks, savings associations, or credit unions making loans primarily for personal, family, or household use to charge all reasonable expenses and fees incurred in connection with making, closing, disbursing, extending, readjusting, or renewing a loan not secured by real property.
- Provides that a creditor who violates the usury law in a commercial transaction is liable to the obligor for an amount equal to three times the amount computed by subtracting the amount of interest allowed by law from the total amount of interest contracted for or received.
- Provides that when a creditor files a counterclaim alleging usurious interest, the action is subject to a 60-day abatement period, during which the creditor may correct a violation.
- Provides that certain commercial loans are exempt from the applicable ceilings set out in state law.
- Permits an obligor in certain transactions to be required to pay or provide a guaranty of another person's existing or future obligation as a condition of the obligor's own use, forbearance, or detention of money. The

amount of the other person's obligation does not constitute interest with respect to any obligation of the obligor.

Grants the Finance Commission of Texas exclusive jurisdiction to enforce and adopt rules relating to certain provisions regarding interest.

Provides that provisions regarding revolving credit accounts apply to personal, family, or household use loans, but not to commercial, investment, or similar, loans, unless the contract provides otherwise.

Provides that statutes regarding manufactured home credit transactions do not apply to transactions primarily for commercial or business purposes.

Defines "towable recreation vehicle" and provides that certain transactions may be subject to state law regarding motor vehicle installment transactions.

Raises the reference base for the maximum cash advance on certain consumer loans from \$100 to \$200.

Provides that certain consumer loans providing larger cash advances may impose certain specified charges.

Renames the Savings and Loan Department as the Department of Savings and Mortgage Lending and the savings and loan commissioner as the savings and mortgage lending commissioner.

Authorizes the finance commission to establish reasonable and necessary fees for the administration laws regarding mortgage bankers and brokers.

Increases the administrative penalty savings banks may pay for certain violations from \$1,000 per day to \$10,000 per day.

Requires the savings and mortgage lending commissioner to study the desirability and feasibility of developing alternative thrift charters and report to the legislature not later than December 31, 2006.

Authorizes the consumer credit commissioner to issue an order to take affirmative action to enforce compliance.

Sets out the hearing and review procedure for orders issued by the consumer credit commissioner.

Authorizes the consumer credit commissioner to order an administrative penalty not to exceed \$1,000 for each day of violation of a cease and desist order

Increases the aggregate amount of penalties that the consumer credit commissioner may assess against a person.

Authorizes the consumer credit commissioner to accept assurance of voluntary compliance from a person who is engaging in or has engaged in an act or practice in violation of consumer credit or debtor assistance laws or rules.

- Sets out the requirements of such an assurance;
- Provides that an assurance of voluntary compliance is not an admission of a violation, but subsequent failure to comply with the assurance is prima facie evidence of a violation;
- Provides that a matter closed by the filing of an assurance of voluntary compliance may be reopened at any time;

- Provides that the assurance of voluntary compliance does not affect the right of an individual to bring an action; and
- Authorizes a person entering into an assurance of voluntary compliance to correct violations.

Provides that a suit or other proceeding by a private litigant regarding usury does not affect or restrict any state or federal agency from pursuing a person for any administrative remedy or penalty. However, an administrative agency must consider as a mitigating factor any relief recovered in a private action.

Provides indemnity to federally insured financial institutions for construction defects created prior to the acquisition of the home by the lender through foreclosure.

Makes various changes to laws regarding the organizational and financial requirements of savings banks.

Authorizes the creation of limited savings banks and sets out the application procedures and organizational and other requirements.

Provides that a savings bank organized and chartered under Texas law may perform an act, own property, or offer a product or service that is at the time permissible within the United States for a depository institution organized under federal or state law of this state or another state. Also:

- Provides that this authorization may not be used to alter or negate the application of certain Texas laws, including permissible interest rates and loan fees or fiduciary duties owed to a customer; and
- Sets out the procedure for applying to exercise such powers.

Authorizes a savings bank to be reorganized as a mutual holding company, and sets out the application and approval procedures.

Makes a number of changes to the Mortgage Broker License Act, including amending provisions regarding the denial of the renewal of a license and adding subpoena and enforcement provisions.

Makes a number of technical or nonsubstantive changes.

Financing Automobile Club Memberships—H.B. 1088

By Representative Thompson—Senate Sponsor: Senator Harris

Current law permits regulated lenders to offer automobile purchasers the sale of automobile club memberships at the time or after the loan, but the cost of the membership may not be financed in the loan. This bill:

Permits customers of regulated lenders to finance the charges for automobile club memberships in connection with certain auto loans.

Prohibits making the purchase of an automobile club membership a condition of the loan.

Requires the consumer credit commissioner to determine whether the cost of the membership is reasonable.

Clarification of a Foreclosure Sale—H.B. 1236

By Representative Paxton—Senate Sponsor: Senator Harris

Selling foreclosed property on the courthouse steps is the responsibility of the trustee named in the mortgage being foreclosed. In the recent past, some questions have arisen as to whether a foreclosure sale could be challenged on a technicality if a trustee does not hold a real estate broker's license and a foreclosure sale is a sale of real property. There is no specific exception for foreclosure sales under the Real Estate License Act. This bill:

Amends the Occupations Code to add a provision stating that selling foreclosed property on the courthouse steps when a trustee is named in the mortgage being foreclosed does not apply to a transaction involving the sale of real property under a power of sale conferred by a deed of trust or other contract lien.

Prosecution of the Offense of Credit Card or Debit Card Abuse—H.B. 1323

By Representatives Swinford and Betty Brown—Senate Sponsor: Senator Seliger

Under current law, an individual can be prosecuted for theft of a credit card or debit card if it can be proven that the person actually stole a credit card or debit card, had an intent to obtain a benefit, and presents or uses the card with knowledge that he or she did not have the owner's effective consent. Mere possession of a stolen card is not an offense. This bill:

Provides that a person commits an offense if he or she intentionally or knowingly possesses another's credit or debit card without the effective consent of the owner.

Admissibility of Business Record Regarding Identity Theft—H.B. 1379

By Representative Jesse Jones—Senate Sponsor: Senator Deuell

Sometimes businesses will refuse to provide law enforcement personnel with information relative to a case of identity theft out of fear of liability on the part of the business. This bill:

Provides that a business record provided to law enforcement personnel in connection with an investigation of an alleged identity theft is not admissible in a civil action.

Provides that such a business record is admissible if obtained from a source other than law enforcement personnel.

Designation of Certain Areas of Texas as Enterprise Zones—H.B. 1659

By Representative Chavez—Senate Sponsor: Senator Lucio

Currently, the State Enterprise Zone Program (an enterprise zone is an economic development tool that allows a community to partner with the state to offer local and state tax and regulatory benefits to new or expanding businesses in distressed areas) is limited to certain predefined limited geographical areas that are certified by census demographic information. This bill:

Amends the State Enterprise Zone Program to allow for businesses within economically distressed counties to be nominated for a sales tax refund if certain provisions are met.

Allows cities within economically distressed counties to nominate enterprise zone projects within their entire geographical area.

Establishes that economically distressed counties be determined according to census statistics on poverty, educational attainment, and unemployment as currently designated by the comptroller of public accounts.

Texas Entrepreneurship Network—H.B. 1747

By Representative Jim Keffer et al.—Senate Sponsor: Senator Staples

There is currently no mechanism to bring together and unify all of the agencies and organizations within the state in support of entrepreneurship. This bill:

Sets forth methods through which the Texas Entrepreneurship Network (network) will be established to develop and diversify the economy of this state.

Sets forth requirements of the Texas Center for Rural Entrepreneurship (TCRE).

Sets forth the founding members of the network and authorizes certain institutions to join the network.

Requires TCRE to establish an advisory board to guide and advise the operations of the network.

Requires the network to train and refocus existing state and local resources state to work locally, regionally, and statewide with specific entities to assist entrepreneur participants and improve the environment for entrepreneurial development.

Requires the network to develop a statewide association of certain individuals and help local entrepreneur participants start, grow, or develop their businesses.

Establishes the Texas Entrepreneurship Network fund as an account in the general revenue fund and requires the Department of Agriculture to administer the fund.

Programs and Funding for Emerging Technology Industries—H.B. 1765

By Representative Morrison et al.—Senate Sponsor: Senator Shapiro

Currently, many of the states with which Texas competes, including California, Michigan, Ohio, and Pennsylvania, are investing billions of dollars for research and development funding. In Texas, local and state economic development initiatives are in place, but none provide the funding necessary to provide incentives and foster emerging technology concepts that result in marketable products. This bill:

Establishes the Texas Emerging Technology Fund to cultivate economic and technological opportunities that will allow Texas to remain competitive in both national and global markets.

Sets forth eligibility requirements for an emerging technology industry participant that seeks funding.

Establishes operational and funding rules.

Disclosures for Certain Consumer Contracts Solicited by Mail—H.B. 1833

By Representative Chisum—Senate Sponsor: Senator Seliger

Direct mail solicitors frequently include in their solicitations a check payable to the person or business receiving the offer. The "check" is usually for a nominal amount of money and the recipient may cash the check as the recipient would any other check. However, the act of cashing the check causes the receiver to unknowingly enter into a contract to buy services or products. The resulting action of cashing the check is seldom noted on the check. Instead, it is usually written in small print in the body of additional information enclosed in the envelope with the check. When the recipient calls to question the seller about receiving unwanted merchandise, it is then revealed that by negotiating the check, the recipient has contracted to receive unwanted products or services. This bill:

Provides that disclosures are required for certain consumer contracts solicited by mail.

Provides that if an offer does not contain the required disclosure, or is not followed by any notice, or if the solicitor fails to honor the recipient's request to cancel made under the terms of the offer, that the delivery of any goods or services to the recipient does not operate to form a contract between the solicitor and the recipient.

Provides that a violation of this Act is a deceptive trade practice actionable under the Deceptive Trade Practices and Consumer Protection statute.

Deletion of Certain Electronic Records Regarding Checks—H.B. 1855

By Representative Giddings—Senate Sponsor: Senator Ellis

Currently, a business that accepts checks from customers may enter information regarding dishonored checks into an internal electronic database. However, many businesses are unable to subsequently delete information when it is later determined that the information was inaccurate. This bill:

Requires a business that accepts checks from customers in the ordinary course of business to delete any electronic record indicating that a customer has issued a dishonored check or any other information on which the business bases a refusal to accept a check from a customer, except for the checking account number or bank routing transit number, not later than the 30th day after the date:

- the customer and the business agree that the information contained in the electronic record is incorrect; or
- the customer presents to the business a report filed by the customer with a law enforcement agency stating that the dishonored check was unauthorized, and a written notice from the customer that the dishonored check was unauthorized.

Provides that a business that violates this act is liable to the state for a civil penalty of up to \$1,000.

Authorizes the attorney general to sue to collect the penalty and certain other expenses.

Exempts certain financial institutions.

Consumer Credit Report Information Provided—H.B. 1893

By Representative Eiland—Senate Sponsor: Senator Averitt

The Violent Crime Control and Law Enforcement Act of 1994 makes it a federal crime for an individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under that Act, to willfully engage in the business of insurance. This statute also makes it a federal crime for an individual engaged in the business of insurance to willfully permit the unlawful participation described above by any other person. As a result, insurance companies and insurance executives must be certain that none of their officers, directors, employees or agents have been convicted of criminal activity. A primary source used to determine whether a person has been convicted of such criminal offense is background checks through consumer reporting agencies.

The Business & Commerce Code currently prohibits a consumer reporting agency from providing a consumer report that discloses "... a record of arrest, indictment, or conviction of a crime in which the date of disposition, release, or parole predates the consumer report by more than seven years."

Thus, the insurance company and its officers are prohibited by federal law from employing someone convicted of certain crimes but are denied the opportunity to discover the existence of those convictions beyond seven years through the use of consumer reports because of the Texas statute. This bill:

Authorizes a consumer reporting agency to furnish to a person a consumer report that contains information if the information is needed to avoid a violation of federal law (18 U.S.C. Section 1033).

Texas Certified Retirement Community Program—H.B. 1982

By Representative Blake et al.—Senate Sponsor: Senator Staples

In the United States in 2003, persons age 50 and older comprised over 70 million individuals, most of whom will be retiring in the next five to 10 years. This market owns 77 percent of privately held financial assets, 80 percent of all money in United States savings and loan institutions, and controls half of the discretionary spending in the country. This bill:

Requires the Texas Department of Agriculture (TDA) to establish and maintain a Texas Certified Retirement Community Program (program) through which retirees and potential retirees are encouraged to make their homes in Texas communities that have met the criteria for certification by TDA as a Texas certified retirement community.

Requires a community to meet certain criteria to be eligible to be a Texas certified retirement community.

Requires TDA to develop and use a scoring system to determine whether an applicant will qualify as a Texas certified retirement community.

Requires TDA to provide certain forms of assistance to a community if TDA finds that the community successfully meets the requirements of a Texas certified retirement community.

Administration of the State Infrastructure Bank—H.B. 2134

By Representative Phillips—Senate Sponsor: Senator Shapleigh

The Texas State Infrastructure Bank (SIB) was capitalized with federal funds that have not been replenished. The Texas SIB is subscribed with highway projects and subject to limitations of fund dedications. Current law is unclear about the state's ability to lend SIB funds to local governments. This bill:

Amends the Transportation Code, relating to the administration of the State Infrastructure Bank (SIB), to authorize the use of state funds in the Texas Department of Transportation's SIB loan program and to authorize the Texas Transportation Commission (TTC) to use state funds in the SIB for eligible local roadway projects, including facilities that are not part of the state highway system.

Limits financial assistance, as applicable, to a qualified project that is consistent with the transportation plan developed by the metropolitan planning organization.

Authorizes TTC to create sub-accounts that are capitalized with state funds only, and to exempt projects funded from these accounts from certain federal regulations.

Requires projects receiving funds disbursed from the SIB's sub-accounts capitalized with federal funds to comply with federal requirements.

The Money Services Act—H.B. 2218

By Representative McCall—Senate Sponsor: Senator Brimer

Texas law currently regulates money services businesses under separate chapters of the Finance Code. For example, Chapter 152 regulates businesses that issue and sell checks, money orders, stored value cards, and other payment instruments used to transfer money from one person to another. Chapter 153 regulates businesses that receive currency or an instrument payable in currency for transmission, exchange, or transportation. The licensing requirements applicable to a particular activity depend primarily upon the form in which or how the money is received. This bill:

Consolidates the regulation of money services businesses into one act, the Money Services Act.

Repeals existing Chapters 152 and 153 of the Finance Code. The effect of this consolidation is to reflect and clarify the requirements and procedures that exist under current law while creating a statutory framework that treats money services businesses that engage in functionally similar transactions in a uniform manner.

Serves law enforcement interests at the state and federal level by safeguarding against money laundering and terrorist activities as well as broadening the Texas Department of Banking's enforcement authority over licensed and unlicensed businesses, including their agents.

Modernizes the regulation of money services businesses in Texas.

Notation on the Processing of a Forged Check—H.B. 2223

By Representatives Giddings and Bohac—Senate Sponsor: Senator Ellis

Currently, when a check has been forged, there is no requirement that the check be noted as a forgery, nor does current law require that electronic records pertaining to that check carry the notation "forgery" as the transaction is pending with financial institutions. It is necessary that such notation be made in order that financial institutions and check payees are alerted that the check was written and signed by someone other than the person whose name is on the account against which the check is drawn. This bill:

Requires a financial institution to process certain returned checks as forgeries, in accordance with the financial institution's customary procedures.

Prohibits a victim of identify theft from asserting that the financial institution is liable for wrongfully dishonoring a check returned after the victim makes the request.

Requires a victim of identity theft to hold the financial institution harmless for acting in accordance with the victim's request.

Promotional Permit Relating to the Sale of Alcoholic Beverages—H.B. 2526

By Representative Flores—Senate Sponsor: Senator Whitmire

Currently, many provisions in state law governing the sale of alcoholic beverages are unnecessary and place burdensome requirements on industry promotional activities that are widely accepted in today's marketplace. This bill:

Modernizes and updates several marketing practices by creating a promotional permit and authorizing certain promotional activities.

Authorizes the holder of a promotional permit, on behalf of a distiller, brewer, rectifier, manufacturer, winery, or wine bottler with whom the promotional permit holder has entered into a contract to engage in activities to promote and enhance the sale of an alcoholic beverage in this state, including activities that take place on the premises of the holder of a permit or license under the Alcoholic Beverage Code.

Age Limitation Related to a Paper Route—H.B. 2930

By Representative Deshotel—Senate Sponsor: Senator Van de Putte

Currently, the Labor Code includes an exception to the child labor age restriction so that children may deliver newspapers. However, due to the current definition of "newspaper delivery" and the lack of a minimum age requirement, young children selling newspapers can be placed in dangerous situations. Recently, the Texas Workforce Commission (TWC) has investigated incidents where very young children were hit by cars as they sold newspapers from medians of busy intersections. Because the employer is not in violation of any child labor laws, TWC cannot take action to protect these children. This bill:

Amends the Labor Code to require juveniles to be at least 11 years of age to engage in the delivery of newspapers and redefines "delivery of newspapers" to include only distribution of newspapers on, or maintenance of, a paper route, and not direct sales to the general public.

Constitutional Amendment Clarifying Certain Programs—H.J.R. 80

By Representative Krusee—Senate Sponsor: Senator Ogden

Article III, Section 52-a, of the Texas Constitution grants the legislature authority to create statutory programs for economic development, including grants and loans. Chapter 380 of the Local Government Code was enacted to implement the constitutional amendment. Recently, a state district court held that agreements between cities and businesses under Chapter 380, Local Government Code, which exceed one year in term are unconstitutional. Such a finding renders Chapter 38 virtually unusable. This bill:

Proposes a constitutional amendment to clarify that certain economic development agreements exceeding one year between two cities and businesses under Chapter 380, Local Government Code, are not unconstitutional debts.

Proposes that the legislature may provide for the creation of programs and the making of loans and grants of public money, other than money otherwise dedicated by this constitution to use for a different purpose, for the public purposes of development and diversification of the economy of the state, the elimination of unemployment or underemployment in the state, the stimulation of agricultural innovation, the fostering of the growth of enterprises based on agriculture, or the development or expansion of transportation or commerce in the state.

Creditors Prohibited from Discriminating Against Identity Theft Victims—S.B. 99

By Senator Ellis—House Sponsor: Representative Giddings

Currently, there is no Texas statute that addresses discrimination based on being a victim of identity theft. In a 2003 study done by the Federal Trade Commission, victims of identity theft were asked whether they had experienced various types of problems as a result of having their personal information misused. A total of 36 percent of identity theft victims reported a problem with one of the following: getting a loan, opening or using a credit card, opening a bank account, or cashing checks. This bill:

Prohibits a person who has been notified that an individual who has the capacity to contract has been the victim of identity theft from denying the individual an extension of credit, including a loan, in the individual's name or restricting or limiting the credit extended solely because the individual has been a victim of identity theft.

Provides that a license that is held by a person who violates this law is subject to revocation or suspension.

Defines "identity theft."

Authorizes an insurer authorized to write property and casualty insurance in this state to offer and issue insurance coverage for a loss suffered by a policyholder as a result of the policyholder being a victim of identity theft or attempted identity theft.

Sets forth authorized coverage.

Sets forth eligibility requirements for an insurer to issue coverage.

Authorizes the commissioner of insurance to adopt rules for implementation.

Measures to Attract Major Motor Sports Racing Events to Texas—S.B. 150

By Senator Wentworth—House Sponsor: Representative Puente

Currently, there are many site selection organizations, such as the National Football League, the National Collegiate Athletic Association, Major League Baseball, the National Basketball Association, the National Hockey League, and the Federation Internationale de Football Association, that operate to promote major sporting and athletic events and bring those events to Texas. These site selection organizations benefit from statutes which provide a structure for financing the costs of bidding for, preparing for, and conducting major sporting and athletic events. No such statutory support exists for the Automobile Competition Committee of the United States (ACCUS). This bill:

Adds ACCUS to the existing list of site selection organizations.

Provides a structure for financing the costs of bidding for, preparing for, and conducting a major sports racing event in Texas.

Change in Required Rental Car Posting Notice—S.B. 359

By Senator Harris—House Sponsor: Representative Solomons

Currently, state law requires each rental car company that offers a rental car damage waiver to post a notice that, in part, states: "The Texas personal automobile insurance policy provides coverage with no deductible for the legal liabilities of the policy holder in connection with the loss or damage to a rented vehicle."

This notice is no longer correct in all cases and may result in renters believing they are protected by their personal automobile insurance policy when they are not. This bill:

Amends the current posting requirement to reflect recent changes in the law and auto insurance policies and to advise consumers to make proper inquiry regarding personal auto insurance coverage.

Deletes existing text stating that the Texas personal automobile insurance policy provides coverage with no deductible for the legal liabilities of the policyholder regarding the damage or loss of a rented vehicle.

Value of Gift Card Purchases Protected—S.B. 446

By Senator Carona—House Sponsor: Representative Martinez

Currently, gift cards exist that expire after 12 or 24 months or have monthly inactivity charges if unused. A number of states, including California, Massachusetts, New York, Rhode Island, and Washington, have either passed laws or taken legal action in response to unreasonable gift card fees. This bill:

Authorizes the issuer of a stored value card (gift card) to impose and collect reasonable fees and charges, as specified.

Requires an expiration date or policy, fee, or other material restriction or contract term applicable to a stored value card to be clearly and conspicuously disclosed, as specified.

Provides that a stored value card that is sold without the disclosure of an expiration date or policy, fee, or other material restriction or contract term applicable to the card is valid until redeemed or replaced.

Provides that the stored value card is presumed abandoned to the extent of its unredeemed and uncharged value on a certain date, if the existence and location of the owner of a stored value card is unknown to the holder of the property.

Governor's Study of Emerging Technology—S.B. 593

By Senator Carona—House Sponsor: Representative Anchia

The way people live and do business is fundamentally changing. Entire new industries and markets--the Internet, information technology, broadband communications, nanotechnology and biotechnology, among many others--now drive the economy. This bill:

Requires the Office of the Governor to conduct a study to review how states and countries with leading economies based on information, ideas, and technology have structured economic development programs to match business needs; to identify emerging technologies within this state's economy, including growth and development needs and potential capital resources; summarize and outline all existing tools and programs available under law to this state and political subdivisions for encouraging economic development and emerging technology; and outline economic

development functions and responsibilities of this state and certain persons with an interest in encouraging economic growth and opportunity.

Requires the governor to report the results of the study and recommendations for statutory changes of the study to the 80th Texas Legislature.

Property in the Custody of a Pawnbroker—S.B. 757

By Senator Armbrister—House Sponsor: Representative Solomons

Pawnshops have often been the repositories of stolen property. This bill:

Sets forth provisions for a law enforcement hold procedure and pledge or sale of misappropriated property if an officer has reasonable suspicion to believe that goods in the possession of a pawnbroker are misappropriated.

Requires a pawnbroker who generates computerized pawn and purchase tickets, as required by the chief law enforcement officer, to transmit all reportable data to the law enforcement agency electronically in a format used by the pawnbroker's computer software or transaction data directly to a provider of a repository system approved by the consumer credit commissioner.

Defines the action of selling to a pawnbroker misappropriated property as a Class B misdemeanor.

Regulation and Growth of Boxing and Combative Sports in Texas—S.B. 796

By Senator Lucio—House Sponsor: Representative Goolsby

Boxing was first regulated by the state in 1933 as a way to increase government revenue during the Great Depression. In the decades since, the law has evolved primarily to protect the physical health and financial well-being of the boxers and to ensure the fairness of the fight. This bill:

Provides the Texas Department of Licensing and Regulation the means to accommodate the growth of combative sports in Texas.

Prohibits elimination tournaments in Texas.

Creates a cap of \$30,000 on the broadcasting tax.

Reduces regulation and paper work for established amateur sporting organizations.

Improves regulation of less established amateur combative sports organizations.

Eliminates the requirement that professional wrestling promoters register with the Texas secretary of state.

Texas Treasure Award to Honor Businesses—S.B. 920

By Senator Van de Putte—House Sponsor: Representative Anderson

There are businesses that have been in existence in Texas for a lengthy period of time and have remained committed to Texas for generations, creating jobs and stimulating economic growth. This bill:

Requires the Texas Historical Commission (commission) to create the Texas Treasure Award program to honor businesses that have existed in this state providing employment and supporting the Texas economy for 50 years or more.

Authorizes any person to nominate a business that meets the criteria described for consideration to receive the award.

Requires the commission to establish separate levels of recognition for businesses that have existed in this state providing employment and supporting the Texas economy for at least 50 years, at least 75 years, at least 100 years, and at least 125 years.

Special Events Trust Fund to Support Certain Olympic Events—S.B. 1038

By Senator Lucio—House Sponsor: Representative Oliveira

Proponents say that important to bring more international events and athletic competitions to the State of Texas. This bill:

Provides assistance to smaller counties for athletic training and competition, including Olympic events. Current law limits eligibility to counties with a population of one million or more.

Enables Olympic events sanctioned by the United States Olympic Committee to become eligible for the special events trust fund to support certain Olympic events, including training and development activities. The events that qualify for the fund will be expanded to include sports in the Olympic Committee's Community Olympic Development Program.

Enables counties with a population of 250,000 or more to become eligible to serve as the hosting site for these athletic competitions.

Allows smaller counties to become eligible for state assistance in the economic development efforts related to these sporting events.

Adds 11 counties to the four counties currently authorized to receive state assistance and serve as hosting sites.

Debt Management Services—S.B. 1112

By Senator Eltife—House Sponsor: Representative McCall

Current law does little to address the modern, rapidly growing and changing credit counseling environment. While the related statute has not changed since 1967, the business of debt consolidation is now one of the nation's fastest growing, and least regulated, industries.

The Senate Committee on Business & Commerce studied the issue prior to the 79th Legislative Session and recommended that the legislature modernize laws concerning credit counseling and debt management. This bill:

Modernizes the regulatory approach to credit counseling services in Texas by requiring credit counselors to register with the office of the consumer credit commissioner (commissioner) and to maintain certain standards to renew the registration on an annual basis.

Requires a provider to file a surety bond or evidence that the provider maintains an insurance policy in a form approved by the commissioner at the time the provider files an initial or renewal registration application with the commissioner.

Requires a provider to keep and use books, accounts, and other records that will enable the commissioner to determine if the provider is complying with this Act and to maintain any other records as required by the commissioner.

Creation of a Film Industry Incentive Program—S.B. 1142

By Senators Carona and Zaffirini—House Sponsor: Representative Hamric

After building a film production industry over the past 20 years, Texas is now in danger of losing its film industry to more hospitable business climates. Incentive programs have changed the way that location decisions are made in other states. Thirteen states (Florida, Hawaii, Illinois, Louisiana, Minnesota, Mississippi, Missouri, New Mexico, New York, Oklahoma, Pennsylvania, South Carolina, and Utah), and every Canadian province, have such programs in place. This bill:

Creates a financial incentive program to allow Texas to effectively compete with other film destinations.

Tools to Recruit or Retain Special Events With Economic Benefit—S.B. 1253

By Senators Brimer and Lucio—House Sponsor: Representative Goodman

A special event is an event held in a public place within the boundaries of a host community. This bill:

Provides the tools for counties and municipalities to recruit or retain special events that could economically benefit the area.

Requires the host community to submit a special event plan in order to be eligible to use a portion of the tax revenue generated by a special event to assist in paying expenses incurred in connection with the event.

Requires that an economic impact study identifying the geographic area expected to experience economic benefits from the special event be submitted to the comptroller of public accounts (comptroller) for certification and provide an estimate of certain effects of that event.

Requires a host community requesting money under this chapter, not less than six months before the first day of a special event, to submit a special event plan to the Texas Economic Development and Tourism Office.

Requires the comptroller, if a special event plan is approved and the host community is selected as the site of the special event, to deposit into a special event trust fund established by the comptroller for the host community the amount requested in the special event plan and sets forth certain requirements regarding these funds.

Limited Expansion of Alcoholic Beverage Permit at Speedway—S.B. 1331

by Senator Nelson—House Sponsors: Representatives Denny and Geren

The Texas Motor Speedway in Denton County (speedway) seeks limited authority to sell beer and wine on its premises outside its current mixed beverage permitted club areas only during major race events.

Currently, the speedway holds a mixed beverage permit, allowing beer, wine, liquor, and mixed drinks in permitted club areas. Alcohol is prohibited from being brought into or out of those club areas. Ticketed patrons may bring in and consume their own alcoholic beverages of all types throughout the track premises outside these club areas. This bill:

Authorizes the speedway to apply to the Texas Alcoholic Beverage Commission for temporary alcoholic beverage permits for the sale of beer and wine throughout the speedway premises, during the facility's major annual race events.

Limits the sale of beverages under such temporary permits in response to an agreement between the speedway and local community leaders.

Establishes limits regarding the number of annual permits for which the speedway may apply.

Uniform Commercial Building Code—S.B. 1458

By Senator Wentworth—House Sponsor: Representative Corte

Currently, the International Building Code (IBC) is the standard in the United States for the building industry. Although the code is in effect across most of Texas, it is adopted in different forms. This bill:

Adopts the IBC as the standard for all commercial buildings for which construction begins on or after January 1, 2006.

Provides that the IBC also applies to any alteration, remodeling, enlargement, or repair of commercial buildings.

Allows municipalities to establish procedures for the adoption of local amendments to the IBC and for the administration and enforcement of the IBC.

Allows municipalities to review and consider amendments made by the International Code Council to the IBC after May 1, 2003.

Cleaning and Maintenance of Beer Draught Systems—S.B. 1472

By Senator Whitmire—House Sponsors: Representatives Geren and Flores

The Texas Alcoholic Beverage Commission (TABC) currently does not allow a filter to be attached to the carbon dioxide (CO₂) system utilized to deliver beer or draught. This bill:

Authorizes a manufacturer or distributor of beer to provide carbon dioxide filters to beer retailers for draught systems using carbon dioxide or a carbon dioxide and nitrogen blend.

Requires that the cost of providing, maintaining, and replacing the filters be borne by the manufacturer.

Requires the TABC to adopt the rules of implementation.

Certain Exemptions for Interest Rate Ceilings on Commercial Loans—S.J.R. 21

By Senator Averitt—House Sponsor: Representative Flynn

Current state law provides for interest rate ceilings for all loans, including commercial loans. Texas independent and community banks may be at a competitive disadvantage with out-of-state lenders in the area of commercial lending because of the constitutional limitations on interest rates. This bill:

Proposes a constitutional amendment to allow the Texas legislature to create exemptions from the maximum rate of interest for commercial loans.

Defines a commercial loan as a loan made primarily for business, commercial, investment, agricultural, or similar purposes, and not for personal, family, or household purposes.

College Course Credit for Military Training—H.B. 133

By Representative Fred Brown—Senate Sponsor: Senator Ogden

A student who recently returned from military service in Iraq was denied graduation from Texas A&M University (TAMU) because he had too few courses in physical education. This bill:

Requires institutions of higher education (IHEs) to consider whether military training that a student undertook while in the armed services meets the requirements of a course needed for graduation.

Enrollment Threshold Lowered—H.B. 495

By Representatives Miller and Hupp—Senate Sponsor: Senator Fraser

Authorized in 1997, Tarleton State University System Center--Central Texas in Killeen operates as a system center that now has 1,983 students. This bill:

Reduces the semester enrollment threshold from 2,500 to 1,000 full-time equivalent students for the Central Texas Center to become Texas A&M University-Central Texas, an independent institution.

Tuition Installments—H.B. 993

By Representative Gonzales et al.—Senate Sponsor: Senator Hinojosa

Currently, four-year institutions of higher education may allow students to pay tuition and fees in installments. This bill:

Allows governing boards of two-year institutions of higher education to permit students enrolled in a summer term of fewer than 12 weeks to pay tuition and fees in installments on a schedule determined by the board so long as the final payment is received before the last week in the term.

Tuition Hike on Repeated Courses—H.B. 994

By Representative Gonzales et al.—Senate Sponsor: Senator West

Students repeating courses more than two times will have to pay the full cost of tuition. This bill:

Authorizes a junior college or technical college to charge a student higher tuition for a course in which the student has enrolled in the same or similar course two or more times.

Excludes such enrollment from the calculation of contact hours for state funding.

Excludes non-degree-credit developmental courses.

Military Training, College Course Credit, and Readmission—H.B. 1170

By Representative Miller et al.—Senate Sponsor: Senator Shapleigh

A student who recently returned from military service in Iraq was denied graduation from Texas A&M University (TAMU) because he had too few courses in physical education. This bill:

Requires institutions of higher education (IHEs) to consider whether military training that a student undertook while in the armed services meets the requirements of a course needed for graduation.

Requires IHEs to readmit without application or fees a student who left school for active military and national guard service who is otherwise eligible for admission and returns within one year of separation from service.

Timely Graduation—H.B. 1172

By Representative Fred Brown—Senate Sponsor: Senator Zaffirini

The legislature has increasingly focused on the importance of college students graduating on time to reduce crowding at institutions of higher education (IHEs). This bill:

Requires each IHE to report on efforts to reduce the time-to-graduation in its student body including the number of credit hours taken by students enrolled in each academic program and the number of semesters to graduation, the specific efforts implemented to ensure timely graduation, limit excessive credit hours, and improve academic counseling, and other actions and statistics.

Authorizes the Texas Higher Education Coordinating Board (THECB) to use tuition set-asides to repay bonds funding the Texas B-On-Time (BOT) student loan program and to use BOT program money to pay its costs for the program.

Permits IHEs to charge higher tuition to a student who enrolls in a course or substantially similar course for the third time, who enrolls in a course similar to one that the student has already completed, or who exceeds by more than 30 hours the total credit hours required to complete a degree.

Requires a work-study program employer to use non-federal funds to match the percentage of a student's wages that the employer receives from federal funds and to use non-federal money to fund 100 percent of employee benefits provided to a work-study program student.

Authorizes a four-year IHE to use upper-division work-study program students to mentor students who are on academic probation and to require students on academic probation to participate in the program; requires an IHE that offers a mentorship program to report to the Texas Higher Education Coordinating Board (THECB) on its work-study mentorship program, to use part of its Texas work-study program funds to pay for the state's contribution toward the costs of the program; and to pay at least 10 percent of the mentor's wages and 100 percent of benefits from nonfederal work-study funds.

Restricts the eligibility of a TEXAS grant recipient enrolling after 2005 to the fifth anniversary of the initial award for those in a four-year program and the sixth anniversary for students enrolled in a degree program of more than four years; and defines satisfactory academic progress necessary to remain eligible for the TEXAS grant.

Limits a TEXAS grant award to a student enrolled in a private or independent IHE to the amount the student would have received under the Texas equalization grant (TEG) program and prohibits a student from receiving both grants in the same semester.

Limits the number of credit hours required for a diploma to that required for the degree by the Southern Association of Colleges and Schools, unless an IHE determines that a compelling academic reason exists, and allows for review of such findings by the commissioner of higher education.

Permits IHEs to charge higher tuition to students who earn 30 or 45 credit hours in excess of the number required for a degree, excludes those hours from eligibility for state funding, and provides any state savings from this provision to fund TEXAS grants.

Increases the initial and subsequent eligibility requirements for students applying to the TEG program, standardizes the length of eligibility for TEG with those of TEXAS grants, and ensures continued eligibility of a student awarded a prior to the 2005-2006 school year.

College Absence for Military Service—H.B. 1630

By Representative McReynolds—Senate Sponsor: Senator West

Professors in institutions of higher education (IHEs) make their own policies on student absences. Some students have been penalized for absences when they are called to active military service, showing a need for a uniform policy. This bill:

Requires public IHEs to excuse absences from class, examinations, and other required activities by a student who is called to active military services for reasonably short duration.

Authorizes the Texas Higher Education Coordinating Board in cooperation with IHEs to make rules to implement this section.

More Funds for Technology—H.B. 1697

By Representatives McCall and Veasey—Senate Sponsor: Senator West

To increase federal support, any gifts, grants and donations received by institutions of higher education (IHEs) that are part of the Texas Engineering and Technical Consortium are included in the state appropriation for the purpose of drawing more federal matching funds. This bill:

Includes, in the calculation of the state appropriation to the workforce technology development account, the value of any gifts, grants, or donations received by an eligible IHE from a source outside of the consortium.

No Hazing at Private Schools—H.B. 1791

By Representatives Naishtat and Veasey—Senate Sponsor: Senator Barrientos

Current law prohibits hazing in high schools and in public institutions of higher education (IHEs). This bill:

Extends the hazing prohibition to students attending private and independent IHEs.

Junior College Annexation—H.B. 2221

By Representative Luna—Senate Sponsors: Senators West and Hinojosa

Junior college districts (JCDs) include only 35 percent of the state property tax base within their taxing districts. JCDs must provide services to nonresident students, although at a higher tuition rate than residents, and have the need to incorporate unassigned territory into the taxing districts. This bill:

Provides for inclusion or participation in a JCD through contracts with an entity or community for service or by petition of registered voters of the area.

Provides that a student residing in such an area be charged resident tuition and fees, and the entity or community contracting for service pay any costs that exceed the tuition and fee revenue for the area.

Allows the JCD to set the nonresident tuition rate after considering the amount necessary to encourage areas outside the taxing district to join the taxing district; to avoid subsidizing nonresident students with tax revenues; and to include an amount equal to the ratio of the total tax collected divided by the number of credit hours taken by resident students.

Authorizes a JCD to contract with a person, employer, political subdivision, or entity to provide educational services outside the JCD so long as the entity pays costs in excess of the resident tuition and fees paid by the students in the programs.

Requires a JCD to annex only adjacent property contained in a whole school district, county, or municipality.

Provides processes for petitioning for annexation, hearings, holding the election, and incorporating the area annexed.

Restricts voting in an annexation election to the registered voters in the area to be annexed.

Authorizes a JCD that previously annexed an entire school district or municipality to automatically annex any territory subsequently annexed into either entity.

Provides a process for a JCD to annex adjacent territory located in a county-line school district by petition signed by five percent of the registered voters participating in the last state general election.

Authorizes a JCD to order an election to annex all territory located in the district's service area when 35 percent of students reside outside of the district or when more than 15 percent of the high school graduates in the territory to be annexed enrolled in the junior college in the previous five years.

Graduate Medical Education—H.B. 2420

By Representative Chavez—Senate Sponsor: Senator Lucio

Currently, due to a lack of residency positions, the area along the Texas/Mexico border is unable to develop and maintain programs that will provide access to health care for patients and reduce costs associated with the lack of access to health care. This bill:

Allows teaching hospitals along the border to sustain and expand their training programs.

Provides for more physicians to receive training and set up their practices along the border.

P-16 Council—H.B. 2808

By Representative Morrison—Senate Sponsor: Senator West

Currently, coordination of public schools and institutions of higher education is designated as cooperation between state agencies of education. This bill:

Establishes the P-16 Council and its membership: the commissioner of education, the commissioner of higher education, the executive director of the Texas Workforce Commission, the executive director of the State Board for Educator Certification, and the commissioner of assistive and rehabilitative services.

Provides that the commissioners of education and higher education serve as co-chairs of the P-16 Council and appoint three additional members who serve two-year terms.

Enumerates the council's duties, including reporting to the legislature prior to the next session on the current coordination of public and higher education.

Requires quarterly meetings.

Community College Board Election Filing Fee—H.B. 2956

By Representative Hamric—Senate Sponsor: Senator Lindsay

Currently, candidates for community college (CC) boards of trustees have no filing fee or signature requirements. This bill:

Allows a CC district with more than one million residents to require a candidate for a position on the board of trustees to pay a filing fee not to exceed \$200 or to submit a petition signed by no more than 200 registered voters.

Higher Education Assistance Fund Appropriations—H.B. 3001

By Representative Morrison—Senate Sponsor: Senator Duncan

The Higher Education Assistance Fund (HEAF) was created by constitutional amendment as a counterpart to the Permanent University Fund (PUF) for Texas public institutions of higher education receiving funds from the PUF. Distributions are made to eligible institutions via formula allocation. The formula is based on three elements: space deficit, facility condition, and institutional complexity.

Once every five years, the legislature is authorized to update the institutional formula elements and reallocate HEAF distributions. In addition, every 10 years the legislature is authorized to increase the HEAF appropriation to ensure the fund's purchasing power is maintained. This bill:

Reallocates HEAF dollars among recipient institutions and increases the annual constitutional appropriation for the HEAF by \$87,500,000 in the second year of the biennium.

Requires any funding above current levels to be conditioned upon the availability of extra funds in FY 2008. If funds are not available, then the old dollar amounts (\$175 million per annum) will continue in FY 2008.

Timely Graduation—S.B. 30

By Senator Zaffirini—House Sponsor: Representative Fred Brown

With an average time to graduation now totaling six years, legislators want to encourage on-time graduation to reduce overcrowding at four-year universities. This bill:

Authorizes an eight-year pilot project to provide incentives to students contracting to graduate from an institution of higher education (IHE) in a timely manner.

Allows the Texas Higher Education Coordinating Board to establish the program, set criteria, and select participating general academic teaching institutions (GAI) from applicants.

Provides the governing board of a GAI to establish criteria for the pilot program at its institutions.

Requires the governing board of a GAI participating in the pilot program to contract with a student upon receiving a written request in the first academic year of attendance to meet program requirements.

Student Regents—S.B. 34

By Senator Zaffirini—House Sponsor: Representative Morrison

To provide students a voice on the governing board of university systems, S.B. 34 provides for a non-voting student regent. This bill:

Requires each system chancellor to develop a common application form for all system campuses and to forward nominations received from each campus president to the governor.

Provides the eligibility requirements for candidates and a process for each campus' student government to select five candidates to nominate to the president, who chooses at least two candidates to nominate to the chancellor.

Sets out the process and deadlines for the governor to select among the nominees provided by the chancellors or to appoint other students to the positions, and allows the governor to appoint a student to fill a vacancy in an unexpired term.

Provides for a one-year term beginning on February 1.

Specifies that the student regent may not vote or be counted for determining a quorum and is not a member of the board of regents, but can attend and participate in meetings.

Protects a student regent from losing financial aid benefits that he or she would otherwise receive.

Dual Credit Courses and GPA—S.B. 111

By Senators Shapleigh and Shapiro—House Sponsor: Representative Todd Smith

Each high school has calculated student grade point averages under its own formula for the purpose of college admissions and benefits. This bill:

Authorizes the commissioner of education to develop a standard method of computing high school GPAs that gives additional weight to honors, advanced placement (AP), and dual credit courses and to adopt necessary rules.

Requires a school district beginning with the graduating class of 2011 to use the standard calculation, if promulgated by the commissioner, to compute GPA for automatic admissions under the Top 10 Percent Law.

Requires institutions of higher education (IHEs) to establish and implement a policy granting undergraduate course credits to entering freshman students who have successfully completed international baccalaureate (IB) diploma program or dual credit courses, or achieved the minimum score on an AP or college-level examination.

Provides minimum criteria for a course credit policy.

Requires each IHE to report the policy adopted to the Texas Higher Education Coordinating Board (THECB).

Requires THECB and the Texas Education Agency to identify courses and content offered in IHEs and correlate those high school courses included in certain programs.

Specifies the minimum number of course credits a freshman will receive for successful completion of IB programs.

Absentee Trustees—S.B. 114

By Senator Van de Putte—House Sponsor: Representative McClendon

Some junior college district boards of trustees have been stymied by the absence of members needed to conduct business. This bill:

Provides a process to remove a trustee who does not attend at least 50 percent of the board meetings.

Applies only to those trustees who take office on or after the effective date of the bill.

Allied Health Degrees in Tyler—S.B. 276

By Senator Staples et al.—House Sponsor: Representative Berman

The University of Texas Health Science Center at Tyler (UTHSC-Tyler) grants no degrees. UTHSC - Tyler provides training in various medical and allied health programs, continuing education and professional development for health professionals, and clinical experience for nursing and allied health students whose degrees are granted by other universities. This bill:

Permits UTHSC-Tyler to offer professional degree programs and other degree programs in allied health and related health sciences fields jointly or in collaboration with another institution of higher education.

Requires any new programs to first be approved by the Texas Higher Education Coordinating Board.

TAMU-San Antonio Enrollment Threshold—S.B. 296

By Senators Shapleigh and Madla—House Sponsor: Representative Corte

Texas A&M University--Kingsville System Center--San Antonio has been in existence three years but the enrollment growth has forced classes into six portable buildings. Becoming an independent academic institution would provide additional funding to build a permanent campus. This bill:

Lowers the enrollment threshold for the San Antonio Center to become Texas A&M University-San Antonio (TAMU-SA) and operate as an independent campus in the TAMU system to 1,000 full-time equivalent (FTE) students in one semester if the legislature authorizes tuition revenue bonds issued to finance facilities. The enrollment threshold would remain at 2,500 without such authorization.

Prohibits TAMU-SA from receiving the small institution supplement formula funding for the 2006-2007 biennium.

Differential Tuition at Junior Colleges—S.B. 532*By Senator Shapiro—House Sponsor: Representative Morrison*

Junior college districts (JCDs) are not authorized to charge different tuition based on the course, degree program, time of day, or another characteristic; permitting differential tuition could increase the efficiency of programs and facilities. This bill:

Authorizes each governing board of a JCD to set any tuition, rentals, rates, charges, or fees necessary to reflect course costs or for the efficient operation of the district, so long as the tuition rate exceeds \$8 per semester credit hour or \$25 per semester.

Military Dependents' Eligibility for B-On-Time Loan Program—S.B. 579*By Senators Van de Putte and Zaffirini—House Sponsor: Representative Corte*

Currently, the Texas B-on-Time loan program (BOT program) provides no-interest loans to certain students attending institutions of higher education in this state. This program excludes the children of Texas servicemen and servicewomen who are deployed overseas and attend high schools run by the Department of Defense. Since these students are not graduating from high schools physically located in Texas, they are not eligible for the loan program, even though one or more parent is officially a Texas resident. This bill:

Amends the Education Code to include amongst requirements for initial eligibility for a BOT loan, that a person be a resident of this state or be entitled, as a child of a member of the armed forces of the United States, to pay tuition at the rate provided for residents of this state and to include additional requirements to be among the academic requirements that must be met.

Requires the Texas Higher Education Coordinating Board to adopt rules for the administration of this Act, as soon as it takes effect.

Early College for At-Risk Students—S.B. 1146*By Senator Shapiro et al.—House Sponsor: Representative Morrison*

Current law provides the Middle College Education Pilot Program in which an at-risk student in grade 11 or 12 in a school included in the pilot program may take combined high school/college courses so that the student earns a high school diploma and completes an associate degree simultaneously. This bill:

Revises current law to expand the pilot program statewide and rename it the early college education program for all at-risk high school students in grades nine through 12.

Requires an early college program to allow a student, no later than the fifth anniversary of the student's first high school enrollment, to receive a high school diploma and either an associate degree or 60 semester credit hours toward a baccalaureate degree.

Requires articulation agreements between the commissioner of education (commissioner) and institutions of higher education to address curriculum alignment, instructional materials and calendar; courses of study, eligibility of students for financial aid, grading periods and policies, and TAKS administration; and directs the P-16 Council to provide guidance should disagreements arise among parties.

Funds early-college students in the same manner as all public school students within the foundation school program.

Authorizes the commissioner to make rules to administer the program and to provide preferences based on first-generation college attendance and student financial need.

Allows the Texas Higher Education Coordinating Board to adopt rules as necessary, and the P-16 Council to make recommendations for the program.

Changes to Higher Education—S.B. 1227

By Senators Shapiro and West—House Sponsor: Representative Morrison

Many changes to the higher education system were included in H.B. 1227. This bill:

Provides a method of calculating employee benefits for hospitals owned by institutions of higher education (IHEs) that do not receive state funding.

Provides for a nonvoting student regent on each university system board of regents and the process for selecting the representative, consistent with that in S.B. 34, 79th Legislature, Regular Session.

Authorizes the Texas Higher Education Coordinating Board (THECB) to use the federal Lender's Special Allowance program for TEXAS Grants.

Permits student loan funds to be paid to all public and private educational institutions recognized by an accrediting agency, a regional education service center, or other entity that offers an alternative educator certification program, which has been approved by the State Board of Education (SBOE), and provides qualifications required of applicants.

Authorizes THECB to set the maximum term for student loan repayment by board rule and to use tuition set-aside revenue to repay Texas B-on-Time bonds.

Allows a student to pay tuition and fees on an installment basis except when the student has financial aid awards available to cover the total amount due and requires an IHE to deduct tuition and fees from any award and immediately pay any balance to the student.

Allows a governing board of an IHE to postpone the due date for tuition and fees under certain conditions for students whose financial aid was delayed.

Transfers the identification of members of state military forces eligible for tuition assistance to the adjutant general from THECB.

Authorizes a governing board to use the student deposit fund and the collegiate license plate revenue to fund TEXAS Grants awards to resident and nonresident students but prohibits using license plate revenue for emergency loans.

Permits emergency loans to be used to purchase textbooks as well as tuition and fees, and allows an IHE to use a need basis to select from among applicants, when appropriations are insufficient to meet demand.

Requires employers participating in the federal work-study program to match the percentage of a student's wages paid by federal work-study revenue with nonfederal money and to fund 100 percent of employee benefits from nonfederal revenue.

Modifies the Early High School Graduation Scholarship program to:

- permit use of an award for tuition or tuition and fees;
- reinstate eligibility for students who graduated before September 1, 2005, and had been eligible for the awards;
- require students graduating after that date to have completed either the recommended or advanced high school curriculum (RHSC) in certain time periods;
- provide varying awards based on credits earned and length of high school enrollment;
- limit eligibility to those students who attended Texas high schools;
- require THECB to track the use of the awards; and
- require each high school to notify each freshman student of the Early High School Graduation Scholarship program and its requirements.

Allows THECB to extend the eligibility of persons on active duty or other service in the United States armed forces for various benefits.

Modifies the TEXAS grant program for students enrolled in a private or independent IHE by:

- limiting the amount of a TEXAS grant paid to a first-time freshman enrolling for the 2005-2006 academic year to the average tuition and fees of state IHEs;
- prohibiting a student enrolled from receiving both a TEXAS grant and tuition equalization grant (TEG) in the same semester;
- providing THECB a process for calculating the statewide average of tuition and fees;
- permitting an IHE to make partial awards;
- requiring an IHE to use revenue other than a loan to make up any difference between the total tuition and fees and the amount of a TEXAS Grant when an IHE makes a partial grant or as a result of limiting access to either TEG or TEXAS grant; and
- permitting THECB to develop a process for naming and sponsoring any program or individual grant under this program.

Revokes TEG eligibility when a student fails to meet program requirements, and allows reinstatement after the student meets all requirements in a subsequent semester.

Permits THECB to make grants to students demonstrating extreme need not to exceed 150 percent of the usual amount.

Renames the TEXAS Grant II Program as the Texas Educational Opportunity Grant Program and defines satisfactory progress and hardship.

Requires THECB to conduct a biennial study of the total cost of attending each IHE and the resources used to cover that cost and report in even-numbered years to the legislative committees with higher education jurisdiction.

Requires THECB to develop a comprehensive financial aid training program for counselors, student aid offices, community-based organizations, and others.

Authorizes the Texas Department of Transportation to issue specialty license plates for THECB to benefit the College for Texans campaign account.

Tuition and Residency—S.B. 1528

By Senator Zaffirini—House Sponsor: Representative Morrison

State residents qualify for low in-state tuition rates at public colleges and universities. The process for determining residency confuses admissions personnel and provides inconsistent determinations, even for siblings with the same residency. This bill:

Authorizes the commissioner of higher education (commissioner), in consultation with institutions of higher education (IHEs), to adopt rules for determining residency for tuition and fees application, exemptions, and waivers to provide consistency among IHEs and students.

Defines multiple terms including residence, domicile, and dependent; provides a list of conditions which identify a person as a resident of the state, and permits an IHE to reclassify a student for tuition when additional information becomes available before the date on which IHEs must report final enrollment for the purpose of state funding.

Lists the documents a person must provide to determine residency and provides that resident status will continue for a student who maintains enrollment at any public IHE unless the student does not enroll for two consecutive regular semesters after which documentation will be required.

Permits an IHE to charge nonresident tuition and fees for the first term beginning after reclassification and to request the person pay the difference in tuition for an earlier term, and provides sanctions for non-payment.

Requires an IHE that erroneously classified a resident as a nonresident for tuition and fees to immediately lower tuition and fees and to refund any overpayments.

Requires students who either do not provide new information in a timely manner or who provide false information to pay the difference in resident and nonresident tuition and fees within 30 days of notice, and permits an IHE to withhold a certificate, degree, or official transcript.

Prohibits an IHE that misclassifies a person as a resident from collecting the difference in tuition and fees.

Provides that a nonresident may qualify for resident tuition and fees when the person or a dependent moved to the state for specific economic development identified under state law or is a nonresident classified in accordance with the Agreement between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces (4 U.S.T. 1792).

Permits a junior college district to charge higher fees for a course or program that has extraordinary costs without regard for exemptions included in this section.

Prohibits IHEs from considering whether an applicant is eligible for exemptions in this section when evaluating an application for admissions.

**Mandatory Student Fees—H.B. 258, H.B. 598, H.B. 1063, H.B. 1102, H.B. 2108,
H.B. 2272, H.B. 2441, and S.B. 702**

In 2000, the Texas Higher Education Coordinating Board adopted the Texas higher education plan known as *Closing the Gaps* and established four goals for the state. Two goals concern student participation and success: increasing the number of students attending institutions of higher education (IHEs) and increasing the number of students completing their higher education goals. *Closing the Gaps* recommended an affordability policy to ensure that tuition and fees are set in a manner that promotes reducing the disparities in student participation. During the 79th Legislature, Regular Session, eight bills authorizing new fees or permitting fee increases won passage. The maximum fees authorized range from \$75 to \$150 per semester, although usually the fee starts at a lower amount, and the fee for summer sessions is usually half that of a full semester. Fees that may be increased from year to year without approval in a student election are denoted by an asterisk.

Bill Number	Author/Sponsor	Institution	Purpose	Maximum Fee Per Semester
H.B. 258	Pena/Hinojosa	UT Pan American	sports/recreation/wellness center	\$75
H.B. 598	Blake/Staples	Stephen F. Austin	recreational sports programs and facilities *	\$120
H.B. 1063	Oliveiro/Lucio	UT Brownsville/ Texas Southmost	wellness/recreation/fitness center *	\$79
H.B. 1102	Miller/Fraser	Tarleton State	student center fee * and recreational sports fee *	permits each existing fee to increase 10 percent annually*
H.B. 1102	Miller/Fraser	Tarleton State	intercollegiate sports fee *	\$10/semester credit hour or \$130
H.B. 2108	Berman/Eltife	UT Tyler	student union *	\$100
H.B. 2272	Farabee/Estes	Midwestern	recreation/health facility *	\$130
H.B. 2441	Leibowitz/ Van de Putte	UT San Antonio	recreational facility	increased from \$100 to \$150
S.B. 702	Deuell/Flynn	TAMU System	authorizes one or more student center facility(s) on each campus	no change in maximum fee

School Enrollment Changes—H.B. 283

By Representative Hope et al.—Senate Sponsor: Senator Zaffirini

School districts' enrollment policies will change for children whose grandparents provide after-school care or who have been bullied by a fellow student. Staff training, discipline management programs, and student codes of conduct will include bullying prevention and intervention. This bill:

Permits the enrollment in a public school of a nonresident student whose grandparent lives in the district and provides substantial after-school care.

Allows a student who has been a victim of bullying and who attends school on the same campus with the bully, upon request of a parent and after verification of the conduct, to transfer to another campus or school district.

Requires student codes of conduct to prohibit bullying, harassment, and compilation of hit lists, and defines the terms; and to provide methods and options to manage student behavior in classrooms, discipline students, and preventing and intervening in student discipline problems.

Requires a school district to include in its discipline management program prevention and education concerning aggression, harassment, and other forms of bullying.

School Employee Health Benefits—H.B. 407

By Representative Uresti—Senate Sponsor: Senator Madla

A school district employee whose spouse works for the same district does not have the option to choose to be a dependent on the spouse's insurance. This bill:

Allows a school district employee who is eligible for district health benefits and is the spouse of a school district employee covered by the plan to choose to be covered either as an employee or as the dependent of the spouse.

Financial Literacy—H.B. 492

By Representative Woolley et al.—Senate Sponsor: Senator Shapleigh

Many young people graduate from high school without skills to manage personal financial transactions, especially credit card debt. This bill:

Requires instruction in personal financial management in one or more courses included in the Texas Essential Knowledge and Skills (TEKS) curriculum.

Requires school districts and open-enrollment charter schools to incorporate personal financial literacy into any course fulfilling the economics credit required for graduation beginning in the 2006-2007 school year.

Requires the State Board of Education to adopt a TEKS course fulfilling the requirement for personal financial literacy by the 2008-2009 school year.

Mitigating Circumstances for Misconduct—H.B. 603*By Representative Eissler et al.—Senate Sponsor: Senator Lindsay*

The zero-tolerance policy established for schools has resulted in suspensions and expulsions for infractions that did not merit such extreme punishment but which are mandatory. This bill:

Requires the student code of conduct to state whether decisions on expulsion or suspension may include consideration of self-defense, lack of intent, a student's disciplinary history, or a disability that substantially impairs a student's recognition of wrongful conduct.

States that no minimum term of removal or expulsion is required to be included in the student code of conduct.

Provides that a student who is removed from class by a teacher because the student committed aggravated assault, sexual assault, or aggravated sexual assault against the teacher, may not be returned to the teacher's classroom without the teacher's consent, nor may the teacher be coerced to consent.

Requires a principal to inform an educator or classroom aide primarily responsible for instruction of a student who has committed a violation for which the student could be assigned to a disciplinary alternative education program of that conduct, and requires those informed to keep the information confidential, except from the student's parent.

Charter School Enrollment and the Performing Arts—H.B. 1111*By Representatives Phil King and Zedler—Senate Sponsor: Senator Brimer*

Under current law, open-enrollment charter schools (OECS) have to accept students in order of application until the number of applicants exceed the number of seats, when a lottery is used to select students. Discrimination on any basis, including artistic, is not allowed. This bill:

Authorizes OECS that emphasize the performing arts to adopt an admission policy that requires a student to demonstrate artistic ability and to audition, if so desired.

School Performance Rating Notice—H.B. 3297*By Representative Bohac—Senate Sponsor: Senator Staples*

Currently, school districts are required to distribute information on campus performance ratings under the accountability system. This bill:

Requires a school district to:

- print on each student's initial grade notice of each school year, the rating of that campus, and the definitions and explanations of each performance rating; and
- post, within 10 days of the start of school, on the school district's website, the most recent district and campus performance reports, the most recent district performance rating, and the definitions and explanations of each performance rating.

Intensive Reading and Language Program—H.B. 3468

By Representative Isett—Senate Sponsor: Senator Van de Putte

Low reading and language skills are viewed as an impediment to academic success. This bill:

Authorizes the commissioner of education (commissioner), if she so desires, to create a pilot program to use neuroscience-based, scientifically validated methods, interventions, or instructional tools that have been proven to accelerate learning, cognitive ability, and language proficiency.

Limits the pilot program to the 2006-2006 and 2006-2007 school years and limits expenditures on the pilot program to six million dollars.

Provides campus eligibility standards, requirements for campus proposals, and a process for the commissioner to select campuses for participation.

Requires pilot campuses to select participants and to test students before and after program enrollment to measure progress.

Requires the commissioner, if she establishes the pilot program, to make rules to implement the program and to make the program available in the 2005-2006 school year, and requires vendors who provide services to provide a report to the legislature describing the effectiveness of the programs no later than December 31, 2006.

Anabolic Steroid Use—H.B. 3563

By Representative Phil King et al.—Senate Sponsor: Senator Staples

The use of anabolic steroids among high school athletes is seen as a problem. This bill:

Requires the University Interscholastic League (UIL) to:

- Prohibit participation in UIL athletic events unless the student agrees not to use steroids and the parent provides the league with a signed statement acknowledging that non-medical steroid use, possession, purchase, and sale are criminal offenses.
- Develop and make available an educational program on the health effects of steroid use for student athletes, their parents, and coaches no later than September 1, 2005.
- Conduct a survey to determine the extent of illegal steroid use and the effects of providing health information; develop a plan for testing student athletes for steroid use; and report to the legislature by December 1, 2006.

States that the legislature may require the UIL to implement the testing plan if use does not decline.

Permits the UIL to increase its membership rate by the cost of the above steps.

Excludes medical use of steroids from sanctions.

Requires the Texas Education Agency, in conjunction the Department of State Health Services, to develop information regarding the health risks of steroid use and distribute that information to school districts.

Requires school districts to provide age-appropriate information to students.

Security in Public Schools—S.B. 11*By Senator Staples—House Sponsor: Representative Delisi*

Currently, there are no statutory requirements for public schools to participate in emergency preparedness drills or training for school teachers and administrators. This bill:

Requires each school district to adopt and implement a multi-hazard emergency operations plan that addresses mitigation, preparedness, response, and recovery as recommended by the commissioner of education in conjunction with the governor's office of homeland security for use in district schools.

Requires a school district, at least once every three years, to conduct a security audit of the district's facilities using, to the extent possible, the security audit procedures developed by the Texas School Safety Center (center) or a comparable public or private entity.

Requires a district to report the results of the security audit to the district's board of trustees.

Requires the emergency plan to include a system for providing immediate notification to parents or guardians through a variety of communication methods in the event of an emergency.

Requires the center to conduct a safety training program for school districts that includes assistance in developing a multi-hazard emergency operations plan for adoption.

Requires the center to develop security criteria that school districts may consider in the design of instructional facilities.

Requires a school district that constructs a new instructional facility or conducts a major renovation of an existing instructional facility using funds allotted to the district under this subchapter to consider, in the design of the instructional facility, security criteria developed by the center.

Requires the center, no later than December 1, 2005, to develop a school safety program that includes certain requirements and to develop certain security criteria.

Requires each school district, no later than March 1, 2006, to adopt a multi-hazard emergency operations plan.

Cooperation for Early Childhood Development—S.B. 23*By Senator Zaffirini et al.—House Sponsors: Representatives Kolkhorst and Naishtat*

S.B. 76, 78th Legislature, Regular Session, 2003, permitted the State Center for Early Childhood Education to work with agencies in 11 model demonstration projects to integrate and coordinate prekindergarten, Head Start, child care, and after-school child care programs, and streamline eligibility and registration for those programs. Children in the model programs have shown significant gains in language and literacy in short periods of time. This bill:

Authorizes the commissioner of education to establish a program to provide incentives for early childhood education providers to coordinate services.

Allows governmental entities and community organizations in a coordination-of-resources demonstration project to include early childhood education providers, such as Head Start and Early Head Start, prekindergarten, and after-school child-care program services, child-care services provided by nonprofit or for-profit entities, and faith-based child-care programs.

Requires a memorandum of understanding on child-care and early education cooperation and integration that delineates duties and powers such as decision-making authority, uniform eligibility criteria, enrollment, uniform calendars, and others.

Authorizes the State Center for Early Childhood Development, in conjunction with the P-16 Council to develop a school readiness certification system, based on research on early childhood education and development, to measure the effectiveness of prekindergarten programs, Head Start and Early Head Start programs, government-subsidized child-care programs provided by nonprofit or for-profit entities, government-subsidized faith-based child-care programs, and other government-subsidized child-care programs in preparing children for kindergarten, and to issue certificates to providers who meet certain criteria.

Promoting Health in Public Schools—S.B. 42

By Senator Nelson et al.—House Sponsor: Representative Delisi

The incidence of childhood obesity is increasing in Texas and many children are at risk of developing heart disease, stroke, high blood pressure, Type II diabetes, and certain cancers associated with overweight and obesity. This bill:

Requires enrichment curriculum to include health, with an emphasis on the importance of proper nutrition and exercise.

Requires the State Board of Education (SBOE) to ensure that students in middle and junior high schools are allowed to meet the physical activity requirement by participating in physical activity twice each week throughout the school year or have the option to schedule at least two semesters overall.

Authorizes SBOE to take into account certain situations involving extracurricular and club-related events.

Requires SBOE, in consultation with the Department of State Health Services (DSHS) and the Texas Diabetes Council, to develop a diabetes education program that a school district may use in the health curriculum.

Provides that SBOE rules may include an exception for a middle school or junior high school student who participates in an extracurricular activity with a physical activity component that is considered a structured activity.

Requires a student who participates in a school-related activity or an activity sponsored by a private league or club to provide proof of participation in the activity.

Requires SBOE, in consultation with DSHS, to encourage school districts to promote physical activity for children through classroom curricula for health and physical education, to designate nationally recognized health and physical education program guidelines that a school district may use in the health curriculum or the physical education curriculum.

Prohibits SBOE, DSHS, or a school district from adopting any rule, policy, or program that would prohibit a parent or grandparent of a student from providing any food product to children in the classroom on the child's birthday; or children at a school-designated function.

Trustees of Military Reservation School Districts—S.B. 144*By Senator Wentworth—House Sponsor: Representative McClendon*

Current state law does not permit military officers to serve on the school boards of military reservation school districts, which is inconsistent with federal policy. This bill:

Amends the Texas Education Code to authorize the State Board of Education to appoint military officers to the board of trustees of a military reservation school district.

School Employment Policies—S.B. 387*By Senator Wentworth—House Sponsor: Representative Eissler*

School districts do not have a uniform policy on the announcement and posting of job openings. This bill:

Authorizes a school district's employment policies to include information on posting requirements for positions within a school district.

Requires a school district's employment policy to fill a vacant position for which a license or certification is required no earlier than 10 days after posting, unless the vacancy may affect the safety or security of the school.

Requires the district to provide notice to each current employee by posting the position on a bulletin board in a school office, at a district's central administration office, and on the district's website, and to provide a reasonable period for applications.

Permits a school district to post notice for less than 10 days when a teacher vacancy occurs during a school year.

No Competition During TAKS—S.B. 658*By Senator Madla—House Sponsor: Representative Reyna*

Under current law, the University Interscholastic League (UIL) can schedule its competitions without regard to the Texas Assessment of Knowledge and Skills (TAKS) schedule. This bill:

Requires the State Board of Education (SBOE) to adopt rules to prohibit UIL events between Monday and Thursday of the week in which the first administration of TAKS occurs.

Authorizes the commissioner of education (commissioner) to determine the week in which TAKS occurs and to adopt rules to provide UIL with a schedule of TAKS testing at least every three years.

Permits the commissioner's rules to provide for changing the scheduled date of a TAKS administration under exceptional circumstances, including severe weather, natural disaster, or extensive damage to a district's facilities, and to establish criteria to determine when a UIL competition conflicts with a changed test date and must be cancelled.

High School Financial Literacy—S.B. 851

By Senator Shapleigh—House Sponsor: Representative Woolley

Many young people do not understand the complexity of financial management, especially the problems of consumer debt and bankruptcy. This bill:

Provides for a financial literacy program to the extent funds are available and permits the Texas Education Agency (TEA) to accept outside financial resources to fund the program.

Requires TEA to adopt rules for a financial literacy pilot program to equip a self-supporting adult with the knowledge and skills necessary to make personal financial decisions, if funds are available.

Requires TEA to collaborate with the Consumer Credit Commissioner and the State Securities Board to develop the course, which should include information on credit card debt, home ownership, operating a small business, making prudent investments in the stock market, savings programs, bankruptcy, bank accounts and services, balancing a checkbook, loans available to consumers, and establishing a good credit rating.

Requires TEA to report to the legislature on the implementation and effectiveness of the program before January 1, 2007.

Texas Academy of Mathematics and Science—S.B. 1452

By Senator Lucio—House Sponsor: Representative Oliveira

The Texas Academy of Mathematics and Science (academy), located on The University of Texas at Brownsville (UT-Brownsville) campus, will provide exceptional mathematics and science training to advanced high school students who will graduate having completed the core college courses. This bill:

Establishes the academy on the UT-Brownsville campus to provide junior and senior high school students demonstrating exceptional mathematics and science abilities with a university-level curriculum that will teach critical thinking and problem-solving skills to real-world problems as well as the complete high school curriculum, and courses qualifying for college credits.

Requires the UT System board of regents to implement this plan using existing facilities, to use UT-Brownsville faculty for instruction in the academy, and to use available money and grants to fund the academy.

Authorizes payment to the academy of allotments from the foundation school program for each student enrolled at the academy.

Specifies administrative powers of the board of regents and the academy administration, personnel, and program.

Exempts the academy from all other provisions of the Education Code and rules regulating public schools.

Revising the Teacher Retirement System—S.B. 1691

By Senator Duncan—House Sponsor: Representative Eiland

The Teacher Retirement System (TRS) is established by the Texas Constitution. Constitutional provisions include a requirement that financing of benefits be based on sound actuarial principles.

Although the payment of current benefits is not in jeopardy, the system currently has an "infinite" funding period according to the TRS outside consulting actuary. This refers to the necessary amortization period for assets to fund liabilities. Benefit increases, even if only for current retirees, cannot be passed until such time that the fund can amortize liabilities within a 31-year period. Under current conditions, it is estimated that an increase for retirees to adjust for the cost of living is not expected within the next decade unless there are sufficient changes in contributions to the system or to the structure of future liabilities, such as by discouraging early retirement. This bill:

Provides that an employee of an open-enrollment charter school operating under a charter granted by the State Board of Education may participate in TRS.

Requires the commissioner of education and reporting entities to notify TRS of changes in the status of a school district or charter school. The commissioner must notify TRS, not later than the 10th business day after the event:

- of the denial of renewal or surrender of a school's charter;
- that an open-enrollment charter school will not be receiving state funds; or
- that state funding of an open-enrollment charter school has resumed.

Prohibits school districts from offering employees incentives for early retirement.

Provides that TRS members who are not retired or eligible for certain insurance coverage are eligible for monthly compensation supplementation:

- sets out how this amount is calculated and distributed, and
- authorizes employees receiving the supplemental compensation to use the distribution for any employee benefit and to take an amount of the distribution as supplemental compensation.

Authorizes TRS to limit the purchase of service credit (a participant pays to TRS a specified amount and TRS then grants the member one year of equivalent membership service credit for each year of credit approved).

Provides that a member may establish credit by depositing for each year of service credit the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit based on rates and tables adopted by the TRS actuary and adopted by its board of trustees.

Provides that a person who becomes a member of TRS on or after September 1, 2006, is eligible to retire and receive retirement benefits if the member :

- is at least 65 years old and has at least five years of service credit in TRS; or
- is at least 60 years old, has at least five years of service credit in TRS, and the sum of the member's age and amount of service credit in TRS equal the number 80.

Provides that certain persons who become members of TRS on or after September 1, 2006, are at least 55 years old, and have at least five years of service credit in TRS, may be eligible to retire and receive a service retirement annuity reduced from the standard service retirement annuity by a set percentage.

Provides that certain persons who become members of TRS on or after September 1, 2007, may be eligible to retire and receive a service retirement annuity reduced from the standard service retirement annuity by a set percentage if the:

- sum of the member's age and amount of TRS service credit equal the number 80 and the member has at least five years of service credit; or
- the member has at least 30 years of service credit in TRS. For each year of age under 50 years, the standard retirement annuity will be reduced by a set percentage.

Authorizes certain members to elect to take a partial lump-sum distribution if the member is eligible for a service retirement annuity, the sum of the member's age and amount of service credit in TRS equals the number 90, and the member is not participating in the deferred retirement plan.

Requires an employer of a retiree to file a certified monthly report in a form and manner required by TRS and makes failure to file such report an offense.

Requires members to elect by December 31, 2005, whether to participate in the Deferred Retirement Option Plan (DROP) (this plan allows eligible school employees to continue to work while accumulating funds through the retirement system).

Provides that certain members may revoke their decision to participate in DROP on or before December 31, 2005.

Provides that the following do not apply to TRS:

- Chapter 412, Labor Code, which provides that the State Office of Risk Management administers insurance services obtained by state agencies;
- Chapters 2054 (Information Resources Management Act) and 2055 (Electronic Government Program Management Office), Government Code;
- Subchapter C, Chapter 2260 (Resolution of Certain Contract Claims Against the State), Government Code, regarding contested case hearing over contract disputes; and
- Chapters 2261 (State Contracting Standards and Oversight) and 2262 (State Contract Management), Government Code.

Grants TRS exclusive authority over the purchase of goods and services.

Grants TRS exclusive control over all aspects of information technology and associated resources.

Requires the board of trustees to adopt rules regarding the determination of annual compensation.

Authorizes the board of trustees to self-insure or purchase insurance for trust assets and strikes provisions:

- requiring insurance to be purchased from an insurer licensed in Texas; and
- barring the purchase of a policy that provides reimbursement for a trustee's or employee's intentional fraud or failure to act prudently.

Authorizes the board of trustees to make final decisions in contested cases.

Authorizes the executive director to refer appeals to the State Office of Administrative Hearings or to an administrative law judge or hearing examiner.

Makes several changes regarding compensation of TRS employees, including:

- providing that rates and amounts may not exceed those paid for similar services for the state if the expenditures are paid from the general revenue funds;
- exempting TRS from certain statutes regarding travel expenses and employee compensation; and
- authorizing TRS to pay employees at their regular rate of pay for overtime work if compensatory time off would be disruptive to TRS business.

Defines a new employee for the purposes of employer payments to TRS as any person first employed on or after September 1, 2005, including a former member who has withdrawn retirement benefits.

Sets out the amount an employer must pay during each fiscal year and the time period for remitting such payment.

Requires TRS to report to the commissioner of education and the state auditor at the end of each school year each employer that has failed to remit payment.

Requires the commissioner of education or state auditor to withhold the amount that the employer failed to remit, plus interest, from state money paid to the employer.

Sets out what an employer who employs a retiree must remit to TRS.

Provides that provisions regarding professional and consulting services do not apply to certain legal services contracted for by TRS.

Requires TRS to administer the plan in a manner that satisfies the minimum distribution provision of the federal Internal Revenue Code.

Clarifies that certain records held by TRS are exempt from the Texas Public Information Act.

Authorizes TRS to provide and receive certain information electronically.

Exempts TRS trustees, executive director, and employees from liability for acts or omissions made in good faith in the performance of their TRS duties.

Makes a number of changes regarding the Texas Public School Retired Employees Group Benefits Act (Benefits Act), including:

- Defining a retiree as a person retiring after September 1, 2005, with at least 10 years of service credit and either:
 - the sum of the member's age and amount of TRS service credit equal the number 80, regardless of whether the retiree has a reduction in the retirement annuity for early age; or
 - the member has at least 30 years of service credit in TRS.
- Providing that a person who has taken a service retirement from TRS after September 1, 2004, but meets certain other requirements, is deemed a retiree, and meets the eligibility requirements.
- Exempting a coverage plan provided under the Benefits Act from any insurance law that does not expressly apply to the plan or this chapter.

- Requiring an employer who employs certain retirees to contribute the difference between what the retiree is required to pay and the full cost of participation in the plan.
- Providing that the fund is held in trust for the benefit of the participants and cannot be diverted.

Makes a number of changes to the group long-term care insurance program for public school employees, including:

- Permitting TRS to authorize any payment method appropriate for the program.
- Setting out competitive bidding and contract requirements.
- Creating the group long-term care insurance fund program and providing that:
 - the fund is a trust fund with the comptroller;
 - the fund shall be administered for the benefits of participants in the plan of insurance provided under this program;
 - money recovered under contracts for providing insurance coverage under the program and investment and depository income will be credited to the fund;
 - TRS may invest the fund as provided under the Texas Constitution; and
 - money in the fund is to be used only for providing coverage and to cover the cost of administering the program.
- Exempting the coverage plan from other insurance law.

Makes certain changes to the Texas School Employees Uniform Group Health Coverage Act, including

- Providing that certain confidentiality provisions apply to employee records;
- Exempting benefits, contributions, and certain other monies from attachment, garnishment, or other process;
- Exempting certain premiums or contribution from state tax law;
- Exempting the coverage plan from other insurance law;
- Requiring the catastrophic care coverage plan to provide coverage at least as extensive as that provided under the TRS-Care 1 plan;
- Authorizing TRS to provide certain optional coverages;
- Permitting participating entities to hold contribution in trust for Texas school employees and prohibiting them from diverting contributions for any other purpose; and
- Setting out interest to be assessed on late payment of contributions by participating entities.

Transfers the functions and duties of TRS with respect to the compensation supplementation program to the Texas Education Agency.

Provides that a TRS member may establish out-of-state service credit for service performed before January 1, 2006, if the person was a member on December 31, 2005, and makes a contribution as required by this Act.

Sets out which persons and entities are affected by changes made by this Act.

Crime Victims Compensation Fund Calculation Change—H.B. 1489*By Representative Turner—Senate Sponsor: Senator Williams*

Under current law, prior to each legislative session, the attorney general must certify the amount of money anticipated to be available for appropriation in the upcoming biennium by the legislature for victim-related services and assistance. That calculation is made using estimates of revenue for the Compensation to Victims of Crime (CVC) fund as well as estimates of the amount of the fund that will be allocated to fund the Crime Victims Compensation Program and the Crime Victims Institute. As part of the calculation, the statute requires that the office of the attorney general multiply the amount requested to be allocated by 120 percent and also set aside \$10 million in the event of a catastrophe. This bill:

Eliminates the 120 percent multiplier for claims paid out of the CVC fund.

Amends the definition of a victim to include persons who suffered "personal injury" as a result of the criminal conduct of another.

Defines victim-related services or assistance to mean "compensation, services, or assistance provided directly to a victim or claimant for the purpose of supporting or assisting the recovery of the victim or claimant from the consequences of criminally injurious conduct."

Funding for Emergency Medical Services and Trauma Facilities—H.B. 2470*By Representative Delisi—Senate Sponsor: Senator Nelson*

The 78th Texas Legislature, Regular Session, 2003, enacted H.B. 3588 to create a driver responsibility program (DRP) using surcharges on motor vehicle operating licenses targeted at drivers who committed violations relating to safe operation of a motor vehicle. Funds collected were directed to both transportation projects and to support the state's trauma care system. During the interim, agencies charged with oversight and various stakeholders recommended a number of changes to that system. This bill:

Requires unspent funds from a \$500,000 reserve, appropriated from the account for each fiscal year, to be transferred to the reserve the following fiscal year.

Removes language stipulating that the \$500,000 reserve amount be "maintained."

Allows funding eligibility to be extended to an undesignated hospital that applies for trauma verification/designation after September 1, 2005, and files a statement of intent to seek designation and meets "active pursuit of designation" not later than the 180th day after the date the statement of intent is filed.

Repeals Section 780.007, Health and Safety Code, relating to the expiration of the designated trauma facility and emergency medical services account, continuing the allocation of money generated by the DRP.

Requires traffic citations to contain a warning advising that certain convictions could result in a surcharge under the DRP.

Extends the installment period for paying a surcharge under DRP to not more than 36 consecutive months and eliminates the minimum surcharge amount eligible for an installment payment.

Repeals the expiration date for the \$30 state traffic fine for certain offenses.

Comprehensive Rehabilitation Fund Use—S.B. 187

By Senator Zaffirini—House Sponsor: Representative Rose et al.

The Comprehensive Rehabilitation Fund (fund) is a dedicated account derived from court costs. Money in the fund may be used to provide rehabilitation services directly or through public or private resources to individuals determined to be eligible for the services under a vocational rehabilitation program or other program established to provide rehabilitative services. Currently, at the end of each fiscal year, the comptroller is directed to transfer any unexpended balance in the fund that exceeds \$500,000 to the General Revenue Fund. Section 111.060(d), Human Resources Code, added last session to provide contingency funding if needed to address the budget crisis existing at the time, would allow the fund to be used for general governmental purposes under certain circumstances. This bill:

Increases the amount of the unexpended balance retained in the fund from \$0.5 million per state fiscal year to \$1.5 million.

Eliminates the permissible use of money in the fund for general government purposes.

Creation, Re-creation, Dedication, and Re-dedication of State Funds—S.B. 1605

By Senator Ogden—House Sponsor: Representative Luna

Section 403.094, Government Code, relates to the consolidation of funds in existence before August 31, 1993 and provides for the abolishment of dedications in existence prior to August 31, 1995, unless otherwise expressly exempted. This bill:

Provides regulations for the creation and re-creation of funds and accounts in the state treasury, as well as the dedication and re-dedication of revenue, by acts of the 79th Legislature and the exemption of unappropriated money from use for general governmental purposes.

Provides that, except as otherwise specifically provided, all funds and accounts created or re-created in the state treasury by an act of the 79th Legislature, Regular Session, 2005, that become law and all dedications or rededications of revenue in the state treasury or otherwise collected by a state agency for a particular purpose by an act of the 79th Legislature, Regular Session, 2005, that become law are abolished on the later of August 29, 2005, or the date the act creating or re-creating the fund or account or dedicating or rededicating revenue takes effect.

Sets forth statutory dedications, funds, accounts, and increases in fees or other revenue that are exempt from being abolished.

Provides that, effective on the later of August 29, 2005, or the date the act creating or re-creating the fund or account or dedicating or re-dedicating revenue takes effect, certain accounts and funds in the state treasury, as well as the revenue deposited to the credit of these accounts and funds, and dedications of revenue are exempt from being abolished.

Certain Fiscal Matters Affecting Governmental Entities—S.B. 1863

By Senator Ogden—House Sponsor: Representative Pitts

S.B. 1863 sets forth certain statutory changes necessary to comply with assumptions made in the General Appropriations Act, responds to state fiscal concerns, and addresses certain fiscal matters. This bill:

Increases the annual lobby registration fee to \$500 from \$300 for lobbyists other than those employed by a tax-exempt organization under 501(c)(3) or 501(c)(4), Internal Revenue Code, effective December 1, 2005.

Implements the Legislative Budget Board's (LBB) Staff Performance Report recommendation, "Recover Certain State Agency Overpayments to Vendors."

- Requires agencies with total expenditures exceeding \$100 million in a biennium to participate in recovery audits on expenditures to third parties. The comptroller of public accounts (comptroller) may exempt some agencies by rule.
- Directs the comptroller to deposit 50 percent of recovered General Revenue (GR) Funds, General Revenue-Dedicated Funds, and Other Funds in the state treasury. The remaining 50 percent is retained by the agency for the original purpose of the appropriations and to pay the recovery audit firm.
- Requires the comptroller to report results to the legislature.

Makes the period of continuous coverage of certain individuals under the Children's Health Insurance Plan (CHIP) and Medicaid programs six months or until the individual's 19th birthday.

- Requires the Health and Human Services Commission to request a waiver or authorization from a federal agency if needed to implement the provisions.

Implements the LBB Staff Performance Report recommendation, *"Offer an Incentive to Employees Who Opt Out of the State Employee Health Insurance Program."*

- Authorizes the Employees Retirement System (ERS) to provide an incentive payment to an employee or retiree who elects to opt out of the state's health coverage. The amount of the incentive payment is to be set in the General Appropriations Act. The employee or annuitant may use the incentive only to purchase optional coverage provided under the ERS group benefits plan, including TRICARE supplemental health coverage.
- Authorizes a reduction in the state contribution for an employee or retiree who waives participation in the state's health plan. The state is authorized to appropriate the amount specified in the General Appropriations Act for the incentive payment instead of the amount of the state contribution for "member-only" health coverage.

Amends the Texas Water Code to extend certain deadlines related to corrective actions for releases from a petroleum storage tank and extends fee rates in effect for fiscal year 2004-2005 through fiscal year 2007.

- Extends the September 1, 2005, deadline for the Texas Commission on Environmental Quality (TCEQ) to reimburse persons conducting corrective actions for releases from a Petroleum Storage Tank (PST) site to September 2, 2007, if an applicant has made a good faith effort to complete such actions by the original September 1, 2005, deadline. In cases where an extension has been granted because of good faith efforts made, the bill will allow such sites to be placed in the PST "state-lead" program if corrective actions cannot be completed by September 1, 2007.
- Extends the deadline to file PST reimbursement claims from March 1, 2006, to March 1, 2008, and specifies that TCEQ cannot use funds from the PST Remediation Account No. 655 to pay reimbursement claims after September 1, 2008.

Maintains the rate of the petroleum product delivery fee imposed at the fiscal year 2005 level of one-half of one cent per gallon for fiscal years 2006 and 2007, effective September 1, 2005.

Implements a recommendation in the LBB Staff Performance Report recommendation, *“Consider Establishing a Multi-State Medicaid Drug Purchasing Pool.”*

- Authorizes HHSC to enter into agreements with other states for the joint bulk purchasing of prescription drugs for the Medicaid program, CHIP, or other programs. If HHSC finds such an agreement is feasible and cost-effective, the bill requires HHSC to enter into an agreement effective March 1, 2006.

Repeals the expiration of the assessment of the quality assurance fee to Intermediate Care Facilities for the Mentally Retarded (ICF-MRs). This repeal will result in the continuation of the collection of revenue in General Revenue-Dedicated Account 5080 - Quality Assurance.

Amends Chapter 201 of the Transportation Code to transfer revenues collected in state fiscal year 2006 from the issuance and renewal of driver's licenses and personal identification cards (including reinstatement fees), and driver record fees from the Texas Mobility Fund 365 to the General Revenue Fund.

Transfers revenues collected in state fiscal year 2007 from the issuance and renewal of driver's licenses and personal identification cards (including reinstatement fees) from Fund 365 to the General Revenue Fund, effective September 1, 2005.

Amends Chapter 57 of the Utilities Code to continue GR Account 345 - Telecommunications Infrastructure Fund until September 1, 2011. Repeals portions of the statute imposing a ceiling on the assessment. Allows certificated telecommunications utilities to recover the assessment from the utilities' customers once the balance in the account exceeds \$1.5 billion from assessment deposits.

- Requires the assessment to be deposited to the General Revenue Fund, effective September 1, 2005.

Requires counties with a population of 50,000 or greater and municipalities with a population of 100,000 or greater to implement a program to improve the collection of court costs, fees, and fines imposed in criminal cases in accordance with guidelines and a prioritized implementation schedule developed by the Office of Court Administration (OCA).

- Requires counties and cities to report at least annually to the OCA and the comptroller regarding the program. The comptroller will determine a collection rate for counties and municipalities prior to program implementation as well as audit counties and municipalities after program implementation to determine compliance with major program components.
- Requires OCA and the comptroller to help local court jurisdictions implement a collection program.
- Authorizes counties and municipalities to keep a percentage of state court costs, fees, and fines as a service fee if they are compliant with the program criteria and forfeit the fee if they are out of compliance.

Implements the recommendation entitled *“Reduce the Interest Rate Paid on Tax Refunds”* from the LBB Staff Performance Report. Under current law, the state pays interest on refunds of taxes paid for a report period on or after January 1, 2000. The interest rate is set annually at the prime rate plus one percent.

- Changes the rate of interest paid on certain tax refunds claimed after September 1, 2005, for any report period due on or after January 1, 2000. The rate would be the lesser of: (1) the prime rate plus one percent, or (2) the annual rate of interest earned on state treasury deposits during December of the previous year.

Changes the eligibility for the Existing Debt Allotment by rolling forward by two years the school year in which bonds are paid for a school district to be eligible for the allotment.

Implements concepts in the LBB Staff Performance Reports, *"Change Policies Governing Return to Work Retirees"* and *"Reduce the 12 Month Benefit Replacement Pay Eligibility Grace Period."*

- Modifies the amount of longevity pay earned by retirees returning to state service after June 1, 2005;
- Excludes future return to work retirees from earning longevity pay and benefit replacement pay and reduces the amount of vacation hours they will accrue each month; and
- Eliminates eligibility of any state employee who leaves state employment for at least 30 consecutive days to receive benefit replacement pay. Exempts employees on leave without pay and certain employees whose positions typically include a break in service.

Increases longevity pay and hazardous duty pay for state employees and employees of institutions of higher education, effective September 1, 2005. Currently longevity pay is \$20 per month for every three years of service and hazardous duty pay is \$7 per month for every year of service.

- Increases longevity pay to \$20 per month for every two years of service; and
- Increases hazardous duty pay to \$10 per month for every year of service.

Amends the Utilities Code to allow the Public Utility Commission (commission) to set the low income electric customer discount level at less than 10 percent if the commission determines that appropriations are insufficient to fund a 10 percent rate reduction.

Allows the legislature to appropriate funds in excess of interest earned in the Coastal Protection Fund. This section will expire September 1, 2007. This provision also:

- Decreases the fee from two cents per barrel to 1 1/3 cents per barrel;
- Decreases the ceiling on the fund from \$25 million to \$20 million, and
- Decreases the floor from \$14 million to \$10 million.

Provides for the reimbursement, plus interest, of excessive or unfairly discriminatory rates charged by certain insurers.

Changes the eight percent state contribution rate for Teacher Retirement System (TRS) established in statute to reflect the six to 10 percent range established in the Texas Constitution.

Increases the rate at which active public education employees contribute to TRS-Care from 0.50 percent to 0.65 percent, effective September 1, 2005.

FINANCE

Directs the Texas Education Agency (TEA) to fund TRS-participating school districts, participating charter schools, and regional education service centers for supplemental compensation (the “pass-through”) to district employees in an amount established in the General Appropriations Act.

Establishes a 90-day waiting period before new employees are eligible to receive supplemental compensation, effective September 1, 2005.

Requires employers to contribute an amount equal to the state contribution to TRS on behalf of new TRS members first employed as of September 1, 2005, for the first 90 days of employment.

Newborn Screening by the Department of State Health Services—H.B. 790

By Representative Crownover et al.—Senate Sponsor: Senator Nelson

The Texas Department of State Health Services (DSHS) screens newborns for eight disorders. In 2004, the American College of Medical Genetics (ACMG) released recommendations to the Health Resources and Services Administration concerning a uniform newborn screening panel expanding the recommended screenings to 29. This bill:

Requires the Department of State Health Services (DSHS) to conduct a study to determine the most cost-effective method of conducting newborn screening.

Requires the Health and Human Services Commission to review and study the National Newborn Screening and Genetics Resources Center's assessment of the screening program in Texas and, based on findings of this review, to adopt rules for DSHS to implement a newborn genetic screening program.

Requires DSHS to obtain proposals regarding newborn screening and to determine if it is more cost-effective to contract for screening services.

Requires DSHS, if it determines it is cost-effective, to obtain the use of equipment, including tandem mass spectrometers, and hire employees necessary to administer the Act.

Requires DSHS, if outsourcing is determined to be more cost-effective, to contract for these services.

Requires DSHS to require newborn screening tests to screen for disorders detectable by a tandem mass spectrometer and listed in the core uniform panel of newborn screening conditions recommended in the 2005 report by the American College of Medical Genetics entitled "Newborn Screening: Toward a Uniform Screening Panel and System" or another report determined by the agency to provide more appropriate newborn screening guidelines.

Requires DSHS to implement the expanded newborn screening program not later than November 1, 2006.

Care of Elementary and Secondary School Students With Diabetes—H.B. 984

By Representative Reyna et al.—Senate Sponsors: Senators Duncan and Barrientos

Diabetes mellitus is a common chronic condition of school-aged children affecting one in 400-500 children. In Texas, Type I diabetes is the second most prevalent chronic disease in children, next to asthma. The safety and well-being of children taking insulin for diabetes requires basic provisions to carry out routine care tasks. This bill:

Creates Chapter 168, Health and Safety Code, to establish provisions relating to the care of public school elementary and secondary school students with diabetes.

Requires an individualized health care plan for any student who will seek care for diabetes while at school or participating in a school activity. The individual health plan is developed by the school principal, school nurse, the student's parent or guardian, and to the extent possible, the student's physician and one or more of the student's teachers.

Requires a school principal, at each campus attended by one or more students with diabetes, to ensure that there is at least one school employee trained as an unlicensed diabetes care assistant (UDCA) if there is a full-time school nurse employed at the campus and three personnel trained as UDCAs if a nurse is not assigned to the school.

Requires the school nurse or UDCA on each campus to perform any regular monitoring and intervention tasks in accordance with the individual health plan of a student with diabetes.

Requires training for school nurses or UDCAs to be conducted prior to the beginning of the school year or as soon as practicable upon enrollment or diagnosis of a student with diabetes.

Requires the Texas Diabetes Council (TDC), with assistance of specified entities, to develop guidelines for training school employees who are not healthcare professionals to assist or care for students with diabetes.

Immunizations For Children in Regulated Child-Care Facilities—H.B. 1316

By Representative Zedler—Senate Sponsor: Senator Deuell et al.

Approximately 60 percent of children under the age of six in the United States attend child or day care programs. In such settings, children come into close contact with one another, facilitating the exchange of both viral and bacterial infection as they share toys, play on equipment, etcetera. According to the federal Centers for Disease Control, children in childcare settings are three times more likely to contract pneumococcal disease, including pneumococcal meningitis. Currently, pneumococcal disease and hepatitis A are the only vaccines recommended by the American Academy of Pediatrics Advisory Committee on Immunization Practices that are not required under state statute. This bill:

Adds a vaccination for invasive pneumococcal disease and hepatitis A to the list of required vaccines for children in regulated child-care facilities.

Information Provided to Parents of Newborn Children—S.B. 316

By Senator Lucio—House Sponsor: Representative Solis

Currently, there are no laws in place to help educate parents about and prevent shaken baby syndrome (SBS). This bill:

Requires the Department of State Health Services (DSHS) to create an informational pamphlet about SBS.

Requires the pamphlet to be provided to the mother, father, or another adult caregiver for the infant and to include information on organizations that provide assistance relating to postpartum depression and other emotional trauma associated with pregnancy and parenting, the prevention of SBS, a list of required childhood immunizations, and a schedule for follow-up procedures for newborn screening.

Requires the documentation that the woman has received the above information to be retained for at least five years.

Authorizes a hospital, birthing center, physician, nurse midwife, or midwife to use the pamphlet or another document that contains the required information.

Requires DSHS to make a printable version of the pamphlet available on its website and to update the resources and required immunizations quarterly.

Requires DSHS to coordinate funding for the development, publication, and distribution of the informational pamphlet with other health and human services agencies, and to solicit funding to carry out this Act through means other than appropriations, such as gifts, grants, and sales of sponsorship or advertising.

Donor Education, Awareness, and Registry Program—H.B. 120

By Representative Dawson et al.—Senate Sponsor: Senator Zaffirini

Every 13 minutes, a new name is added to the national transplant waiting list, and every day, 17 people die while awaiting a life saving organ transplant. Currently, Texas does not have a statewide organ and tissue donor registry. This bill:

Establishes the Donor Education, Awareness, and Registry (DEAR) Program of Texas to develop an educational program, awareness activities, and a registry program to improve understanding and acceptance of organ and tissue donation and transplantation in Texas.

Authorizes the statement of anatomical gift to be shown on a donor's driver's license or personal identification certificate or by a card designed to be carried by the donor to evidence the donor's intentions with respect to organ, tissue, and eye donation.

Requires donor cards to be provided to the Department of Public Safety (DPS) by qualified organ or tissue procurement organizations or eye banks, as those terms are defined by the DEAR program of Texas established under Chapter 49 (Anatomical Gift Educational Program), Health and Safety Code.

Requires DPS to provide to each applicant for the issuance of an original, renewal, corrected, or duplicate driver's license or personal identification certificate who applies in person, by mail, over the Internet, or by other electronic means, an opportunity to indicate and consent to certain agreements.

Requires an affirmative statement of gift on a person's driver's license or personal identification certificate executed after August 31, 2005, to be conclusive evidence of a decedent's status as a donor and serve as consent for organ, tissue, and eye removal.

Establishes procedures for the removal of a person's name from the statewide Internet-based registry of organ, tissue, and eye donors.

Requires the Department of State Health Services (DSHS), in consultation with DPS and organ procurement organizations, to establish the DEAR program of Texas.

Requires DSHS to enter into an agreement with an organization selected by the commissioner under a competitive proposal process for the establishment and maintenance of a statewide Internet-based registry of organ, tissue, and eye donors.

Establishes the procedures for the transfer of donor information between DPS and the organization selected by the commissioner to maintain the statewide Internet-based registry of organ, tissue, and eye donors (registry).

Establishes restrictions relating to medical privacy and the sharing of donor information.

Establishes the Texas Organ, Tissue, and Eye Donor Council (council) and sets forth the duties, responsibilities, and functions of the council.

Requires DPS, in each office authorized to issue driver's licenses or personal identification certificates, to make available educational materials developed by the council.

Requires DPS and a county assessor-collector to collect an additional fee of \$1 for the issuance or renewal of a license, including a duplicate license, a license issued to reflect an additional authorization or a change in

classification, or a license issued or renewed over the Internet or by other electronic means, to pay the costs of the DEAR program and of the council if the person applying for, renewing, or changing a license opts to pay the additional fee.

Sets forth provisions relating to the handling of such fees.

Requires the Texas Department of Transportation to provide to each county assessor-collector the educational materials for prospective donors provided as required by the DEAR program and requires a county assessor-collector to make the educational materials available in each office authorized to accept applications for registration of motor vehicles.

Attorney General's Review of Health Care Procurement Contracts—H.B. 880

By Representative Delisi—Senate Sponsor: Senator Zaffirini

The attorney general is frequently asked to perform a review of major health care procurement contracts at state agencies. These reviews are often requested at the end of the contracting process when it is more difficult to incorporate suggested changes. This bill:

Authorizes the attorney general to review certain contracts for health care purposes.

Provides that this bill applies to any contract with a amount of \$250 million or more that meets certain criteria for health and human service agencies.

- Requires a representative of the office of the attorney general, notwithstanding any other law, before certain contracts are authorized to be entered into by a health and human services agency (agency), to review the form and terms of the contract and authorizes the representative to make recommendations to the agency for changes to the contract if the attorney general determines that the office of the attorney general has sufficient subject matter expertise and resources available to provide this service.
- Requires an agency to notify the office of the attorney general at the time the agency initiates the planning phase of the contracting process.
- Authorizes a representative of the office of the attorney general or another attorney advising the agency under certain circumstances to participate in negotiations or discussions with proposed contractors and to be physically present during those negotiations or discussions.
- Authorizes the office of the attorney general to require the agency to enter into an interagency agreement or to obtain outside legal services for the provision of services described, if the attorney general determines that the office of the attorney general does not have sufficient subject matter expertise or resources available to provide the services described by this section.
- Requires the agency to provide to the office of the attorney general any information the office of the attorney general determines is necessary to administer this section.

Provides that this section applies to any contract with a contract amount of \$250 million or more that meets certain criteria for the Employees Retirement System (ERS).

- Requires a representative of the office of the attorney general, notwithstanding any other law, before a contract is authorized to be entered into by ERS, to review the form and terms of the contract and authorizes the representative to make recommendations to ERS for changes to the contract if the attorney

general determines that the office of the attorney general has sufficient subject matter expertise and resources available to provide this service.

- Requires ERS to notify the office of the attorney general at the time the system initiates the planning phase of the contracting process. Authorizes a representative of the office of the attorney general or another attorney advising the agency to participate in negotiations or discussions with proposed contractors and to be physically present during those negotiations or discussions.
- Authorizes the office of the attorney general to require ERS to enter into an interagency agreement or to obtain outside legal services for the provision of services if the attorney general determines that the office of the attorney general does not have sufficient subject matter expertise or resources available to provide the services.
- Requires ERS to provide to the office of the attorney general any information the office of the attorney general determines is necessary.

Provides that this section applies to any contract with a contract amount of \$250 million or more that meets certain criteria for the Teacher Retirement System (TRS).

- Requires a representative of the office of the attorney general, notwithstanding any other law, before a contract is authorized to be entered into by TRS, to review the form and terms of the contract and authorizes the representative to make recommendations to TRS for changes to the contract if the attorney general determines that the office of the attorney general has sufficient subject matter expertise and resources available to provide this service.
- Requires TRS to notify the office of the attorney general at the time the system initiates the planning phase of the contracting process. Authorizes a representative of the office of the attorney general or another attorney advising TRS to participate in negotiations or discussions with proposed contractors and may be physically present during those negotiations or discussions.
- Authorizes the office of the attorney general to require TRS to enter into an interagency agreement or to obtain outside legal services for the provision of services, if the attorney general determines that the office of the attorney general does not have sufficient subject matter expertise or resources available to provide the services.
- Requires TRS to provide to the office of the attorney general any information the office of the attorney general determines is necessary.

Provides for the application of this Act only to a contract that is entered into on or after November 1, 2005.

Removal of Corneal Tissue From a Decedent—H.B. 1544

By Representatives Dawson and Coleman—Senate Sponsor: Senator Ellis

The 64th Texas Legislature, 1975, in response to a nationwide shortage of viable corneas available for transplantation, passed H.B. 307 which allowed corneal tissue to be removed but did not require that a medical examiner ask whether a relative or a descendent objected to the removal of the tissue. Removal was permitted if the medical examiner was unaware of an objection and if the removal did not interfere with an autopsy or alter the post-mortem facial appearance. There have been documented cases in which corneal tissue was removed despite objections by the decedent's family. This bill:

Amends Chapter 692, Health and Safety Code, to provide that a person who removes corneal tissue from a decedent knowing that a gift authorizing the removal has not been made in accordance with the law is liable to the state for a civil penalty.

Provides that a person authorized to accept a gift under the law or the person's agent or employee who accepts corneal tissue removed from a decedent knowing that a gift authorizing the removal has not been made in accordance with the law is liable to the state for a civil penalty.

Provides that a civil penalty may not exceed \$500 for each violation and requires the court, in assessing a penalty under this section, to consider the seriousness of the violation.

Authorizes the attorney general to sue to collect the penalty.

Authorizes the medical examiner, justice of the peace, county judge, or physician designated by the justice of the peace or county judge, on a request from an eye bank, to permit the removal of corneal tissue subject to the same provisions that apply to removal of a visceral organ on the request of an organ procurement organization. The provisions relating to immunity and consent apply to the removal of the corneal tissue.

Anatomical Gifts to a Forensic Decomposition Facility—H.B. 2180

By Representatives Anderson and Dawson—Senate Sponsor: Senator Averitt

State law enforcement officials need reliable data on decomposition of bodies; however, the nearest facility that is able to meet that need is located at the University of Tennessee in Knoxville. The data produced is not necessarily reliable in the different climatic and terrain conditions of Texas and the costs associated with the use of a facility outside of the state is taxing to state agency budgets. A decomposition facility at a forensic science program in Texas would help resolve both problems, offering a training site to state law enforcement personnel and further developing a network of forensic anthropologists available to assist these investigators. Baylor University has the only undergraduate forensic science program in Texas and proposes to establish a decomposition facility. This bill:

Amends Section 692.005, Health and Safety Code, to authorize forensic science programs at general academic teaching institutions and a private or independent institution of higher education to be able to receive gifts of bodies or parts of bodies.

Forensic Training—S.B. 39

By Senator Zaffirini—House Sponsor: Representative Goolsby

Advances in criminal evidence collection and analysis suggest that the state should include forensic evidence collection training for emergency room staff. This bill:

Allows a physician who treats patients in an emergency room to complete two hours in evidence collection for continuing education credit required for license renewal.

Authorizes the Texas State Board of Medical Examiners to adopt rules for continuing education courses in forensic evidence gathering.

Requires a nurse who is employed in an emergency room and who is licensed by the Board of Nurse Examiners (BNR) to take two hours of continuing education in forensic evidence collection within a specific time period.

Authorizes BNR to adopt rules for implementing the courses.

Competitive Grant Program for Aging and Disability Services—S.B. 52

By Senator Nelson—House Sponsor: Representative Hupp

Currently, the quality of life competitive grant program partially pays for the development of a project designed to serve as a model of best practices for the nursing home industry, but no similar program exists relating to resident quality of life. This bill:

Amends the Health and Safety Code and the Human Resources Code to authorize the appropriation of administrative penalty assessments for competitive grant programs to promote innovation in the delivery of aging and disability services and improve the quality of life for individuals receiving those services.

Requires the Department of Aging and Disability Services (DADS) to establish a competitive grant program that promotes innovation in the delivery of aging and disability services and improves the quality of life for individuals receiving those services.

Requires a grant awarded by DADS to be used to test innovative practices in the provision of aging and disability services, or disseminate information regarding innovative practices being used to provide aging and disability services.

Requires DADS to request proposals for the award of a grant under the program and to evaluate the proposals and award a grant based on a proposal's academic soundness, quantifiable effectiveness, and potentially positive impact on the delivery of aging and disability services.

Requires a certain grant awarded to be made to an institution of higher education working in cooperation with a private entity that has committed resources to the project described in the proposal.

Authorizes a grant recipient to use grant money received under this section only to pay for activities directly related to the purpose of the grant program and prohibits use of grant money for fees or advertising.

Requires DADS to establish procedures to administer the grant program, including a procedure for the submission of a proposal and a procedure to be used to evaluate a proposal.

Requires DADS to enter into a contract that includes performance requirements with each grant recipient, and to monitor and enforce the terms of the contract.

Requires the contract to authorize DADS to recoup grant money from a grant recipient for failure of the grant recipient to comply with the terms of the contract.

Requires DADS to post on its website a summary of each grant awarded.

Authorizes the legislature to appropriate certain money, including unexpended and unobligated amounts collected during a previous state fiscal biennium, to fund the grant program.

Repeals Section 242.405 (Best Practices/Quality Of Life Competitive Grant Program), Health and Safety Code.

Provides that it is the intent of the legislature that DADS establish the grant program authorized by this Act only if DADS determines that the administrative penalties are sufficient to fund the grants to be awarded.

Regulation and Medicaid Reimbursement for Telehealth Services—S.B. 1340

By Senator Madla—House Sponsor: Representative Delisi

Telemedicine and telepsychiatry could be used to increase access to services while controlling costs and maintaining quality. This bill:

Requires the Health and Human Services Commission (HHSC) to establish a separate identifier for telemedicine medical services eligible for reimbursement.

Requires the executive commissioner of HHSC, by rule, to establish and set minimum standards to permit the use of trained health professionals other than physicians, registered nurses, advanced practice nurses, or physician assistants, to present patients (telepresenter).

Authorizes HHSC to provide reimbursement for a Medicaid telemedicine service initiated by a trained health professional who complies with minimum standards under this Act.

Requires HHSC to provide reimbursement under the state Medicaid program to a physician for overseeing a telemedicine consultation at a telemedicine hub site if the telepresenter at the remote site is another physician or is an advanced practice nurse, registered nurse, or physician assistant acting under physician delegation and supervision throughout the consultation.

Requires the State Board of Medical Examiners, in consultation with HHSC and the Department of State Health Services (DSHS) as needed, to adopt rules to establish supervisory requirements for a physician delegating a service to be performed by an individual who is not a physician, registered nurse, advanced practice nurse, or physician assistant, including a health professional who is an authorized telepresenter.

Provides that this requirement may not be construed as authorizing the Texas State Board of Medical Examiners to regulate another licensed or certified health care provider.

Expands the responsibilities of the telemedicine advisory committee to assist HHSC in evaluating policies related to telepresenters.

Requires the executive commissioner of HHSC, by rule, to establish and DSHS to implement a pilot program to provide Medicaid mental health services through telehealth or telemedicine.

Authorizes HHSC to reimburse participating mental health services providers.

Authorizes HHSC to apply for a grant to fund the pilot under the federal New Freedom Initiative on Mental Health.

Requires HHSC, not later than December 1, 2006, to report to the legislature on the results of the pilot.

Requires HHSC to conduct a study to identify policy changes needed to facilitate development of a telemedicine provider network for Medicaid, including new billing codes, new provider identifiers and a description of telemedicine medical services eligible for reimbursement.

Requires HHSC, not later than January 1, 2006, to report the results of the study.

Emergency Services for Sexual Assault Survivors—H.B. 677

By Representative Thompson et al.—Senate Sponsors: Senators Wentworth and Van de Putte

Currently, sexual assault survivors are not receiving adequate care in many emergency rooms, as the information and treatment they receive varies widely depending upon the emergency room. This bill:

Requires a health care facility to submit to the Department of State Health Services (DSHS) for approval and within 60 days of a DSHS request, a plan for providing emergency services for sexual assault patients.

Requires DSHS to adopt procedures for submission, approval, and modification of a plan required under this section and to approve or reject the plan no later than 120 days after the date the plan is submitted.

Requires DSHS, if a plan is not approved, to return the plan to the health care facility and identify the specific provisions with which the plan conflicts or does not comply.

Requires a health care facility to correct and resubmit the plan to DSHS within 90 days of the date the plan was returned to the facility.

Requires a health care facility to take certain steps after the arrival of a sexual assault survivor at the facility, to conduct a forensic medical examination.

Sets forth criteria for a health care facility in conducting a forensic medical examination and requires the health care facility to obtain documented consent before providing forensic medical examinations and treatment.

Requires DSHS to develop a standard information form for sexual assault survivors that must include specific and detailed information regarding the forensic medical examination and withdrawal of consent to such, treatment of sexually transmitted infections and pregnancy, drug-facilitated sexual assault, crime victims compensation, and the name and telephone number of sexual assault crisis centers statewide.

Requires a health care facility to use a standard form developed under this Act.

Authorizes an individual employed by or under contract with a health care facility to refuse to provide the information form required by this Act for ethical or religious reasons.

Requires the health care facility, if an individual refuses to provide the survivor with the information form, to ensure that the information form is provided without delay to the survivor by another individual employed by or under contract with the facility.

Authorizes DSHS to conduct an inspection of a health care facility to ensure compliance with this Act.

Creating the Texas Health Care Policy Council—H.B. 916

By Representatives Woolley and Chavez—Senate Sponsor: Senator Nelson

Proponents believe that coordination between relevant affected parties could help identify and resolve problems in the private and public health care system. This bill:

Establishes the Governor's Health Care Coordinating Council (council) in the Office of the Governor.

Requires the council to identify and study problems in the health care system and identify possible solutions for the state or other participants in the system.

Authorizes the council to form advisory committees to accomplish the council's purpose.

Establishes the Texas Health Workforce Planning Partnership (partnership) as a standing committee of the council.

Requires the council to submit a report of its findings and recommendations to the governor, lieutenant governor, and speaker of the house of representatives not later than December 31 of each even-numbered year.

Requires the council to facilitate and promote the use of technology in the health care system, research and promote initiatives relating to patient safety, and establish a clearinghouse of information to assist communities in assessing the needs of local health care systems.

Requires the partnership to monitor the health care workforce needs of the state, implement appropriate health care workforce planning activities, and research ways to increase funding for health care.

Requires the council to hire an executive director and authorizes the director to hire staff.

Requires each state agency on the council to provide funds to support the council, and that the council develop a funding formula to determine each state agency's level of support.

Authorizes the council to contract with public or private entities to perform its research and reporting activities.

Requires the Statewide Health Coordinating Council at the Department of State Health Services, in conjunction with Area Health Education Centers (AHECs) to examine diverse medically underserved communities of the state. Four of the communities would be located in a county with a population of 50,000 or less. One of the communities would be located in an urban county.

Health Services to State Employees—H.B. 952

By Representative Delisi—Senate Sponsor: Senator Barrientos

An advance practical nurse clinic has been in operation at the Texas Capitol for several years, and it has proven to be both convenient and cost-effective. This bill:

Establishes a pilot program to create such a clinic for the Texas Commission on Environmental Quality.

Health Benefit Plan Coverage for Screening for Cervical Cancer—H.B. 1485

By Representative Thompson et al.—Senate Sponsor: Ellis

According to a study, the mortality rate for Texas women from cervical cancer is 30 percent higher than the national rate. The presence of precancerous abnormal cells, which may progress to cervical cancer if left untreated, may be detected by a Pap smear test or other pelvic exam. This bill:

Requires certain health benefit plans to provide to each female enrollee 18 years of age or older coverage for an annual medically recognized diagnostic examination for the early detection of cervical cancer.

Requires a health benefit plan issuer to provide written notice of the coverage required under this Act.

Sentinel Surveillance Program for Respiratory Syncytial Virus—H.B. 1677

By Representatives Dukes and Riddle—Senate Sponsor: Senator Zaffirini

Infection with Respiratory Syncytial Virus (RSV) is one of the most common causes of bronchiolitis and pneumonia in young children. While infection with this organism generally manifests in older children and adults as a mild upper respiratory tract infection, it can cause severe and even fatal disease in immunocompromised individuals, those with underlying cardiopulmonary disorders, preterm infants, and other vulnerable groups. Improved recognition, prevention, and treatment strategies for this infection and improved outcomes are available and it is recommended that high risk individuals receive prophylactic therapy that prevents the development of severe disease after infection with RSV. This bill:

Creates Chapter 96 (Respiratory Syncytial Virus), Health and Safety Code and requires the Department of State Health Services (DSHS) to create a sentinel surveillance system to collect information on the incidence of RSV infection at key locations throughout the state.

Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) to establish a program to identify by sentinel surveillance RSV infection in children and maintain a central database of laboratory confirmed cases of RSV that can be used to investigate the incidence, prevalence, and trends of RSV.

Requires the executive commissioner in establishing the sentinel surveillance program for RSV, to consider the number and geographic distribution of children in the state; the location of health facilities that collect RSV information locally; and the use of existing data collected by health facilities.

Requires the executive commissioner to adopt rules to govern the operation of the program, including rules that specify a system for selecting the demographic areas in which DSHS collects information and the manner in which data are reported to DSHS.

Authorizes the executive commissioner, to ensure an accurate source of data, to require a health facility or health professional to make available for review by DSHS or an authorized agent, medical records or other information that is in the facility's or professional's custody or control and that relates to an occurrence of RSV.

Authorizes information collected and analyzed to be placed in a central database to facilitate information sharing and provider education. Authorizes DSHS to use the database to design and evaluate measures to prevent the occurrence of RSV and other health conditions and provide information and education to providers on the incidence of RSV infection. Authorizes DSHS to release medical, epidemiological, or toxicological information for statistical purposes, if released in a manner that prevents the identification of any person; to medical personnel, appropriate state agencies, health authorities, regional directors, and public officers of counties and municipalities as necessary to comply with Chapter 96 (Respiratory Syncytial Virus), Health and Safety Code, and rules relating to the identification, monitoring, and referral of children with RSV; or to appropriate federal agencies, such as the Centers for Disease Control and Prevention of the United States

Provides that a health professional, a health facility, or an administrator, officer, or employee of a health facility subject to Chapter 96 (Respiratory Syncytial Virus), Health and Safety Code, is not civilly or criminally liable for divulging information required to be released under this chapter, except in a case of gross negligence or willful misconduct.

Requires a state board, commission, agency, or governmental entity capable of assisting DSHS to cooperate with DSHS and to furnish expertise, services, and facilities to the sentinel surveillance program.

Provides that reports, records, and information furnished to a DSHS employee or to an authorized agent of the department that relate to cases or suspected cases of a health condition are confidential and may be used only for the purposes of Chapter 96, Health and Safety Code. Provides that reports, records, and information relating to cases or suspected cases of health conditions are not public information under Chapter 552 (Public Information), Government Code, and prohibits them from being released or made public on subpoena or otherwise except as provided by Chapter 96, Health and Safety Code.

Rates for Medical Services Provided by DARS—H.B. 1912

By Representative Hupp—Senate Sponsor: Senator Nelson

During a Sunset Advisory Commission review of the Texas Rehabilitation Commission (TRC) and the Texas Commission on the Blind (TCB), the need to establish rates for medical services using a cost-based methodology was identified. Subsequent legislation defined the rate-setting provisions for TRC and TCB. H.B. 2292, 78th Legislature, Regular Session, 2003, combined TRC and TCB under the Department of Assistive and Rehabilitative Services (DARS), and provided multiple rate setting processes within DARS for these divisions. This bill:

Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) by rule to adopt standards governing the determination of rates paid for medical services provided under Subchapter D, Chapter 117, Human Resources Code.

Requires the executive commissioner to establish a schedule of rates based on the standards adopted.

Requires the executive commissioner, in adopting the rate schedule, to compare the proposed rate schedule to other cost-based and resource-based rates for medical services, including rates paid under the Medicaid and Medicare programs and, for any rate adopted that exceeds the Medicaid or Medicare rate for the same or a similar service, document the reasons why the adopted rate reflects consideration of the best value, provider availability, and consumer choice.

Requires the executive commissioner to provide notice to interested persons and allow those persons to present comments before adopting the standards and schedule of rates.

Requires the rules to provide for an annual reevaluation of the rates.

County Expenditures for Certain Health Care Services—H.B. 2618

By Representative Eiland—Senate Sponsor: Senator Nelson

Currently, services provided at a federally qualified health center (FQHC) are included among the optional services that a county may offer under the state's Indigent Health Care and Treatment Act (Act). The funding a county gives to a FQHC can be counted toward meeting the eight percent spending threshold a county must surpass to receive state funding. In order to apply this money toward the threshold, however, the county must spend the money on services for people who meet the eligibility criteria laid out in the Act. Under current law, a county may credit an expenditure for an eligible resident toward eligibility for state assistance if the eligible resident received care at a hospital maintained or operated by a state agency. This bill:

Allows counties to credit money given to FQHCs toward their eligibility for state assistance.

Indigent Health Care Advisory Committee—S.B. 44

By Senator Nelson—House Sponsor: Representative Delisi

H.B. 2292, 78th Legislature, Regular Session, 2003, repealed the Indigent Health Care Advisory Committee. This bill:

Requires the executive commissioner of the Health and Human Services Commission (HHSC) to appoint an 11-member advisory committee to advise HHSC on rules and policies related to indigent health care.

Sets out provisions for the membership of the advisory committee.

Requires the advisory committee to:

- conduct a feasibility study and develop recommendations regarding the implementation of a pilot program for the regionalization of county indigent health care services and assistance and hospital district services and assistance;
- review and propose recommendations for legislation updating indigent health care and treatment including certain health care services provided; the differences in eligibility requirements for and health care services provided by a county, a public hospital, a hospital district; the allocation method used for distributing state assistance funds; and county reporting requirements and enforcement by the Department of State Health Services; and
- identify other areas or subjects related to indigent health care that the advisory committee could review or study.

Requires HHSC to submit a report regarding the advisory committee's recommendations not later than November 1 of each even-numbered year to the governor, lieutenant governor, the speaker of the house of representatives, and the legislature.

Creation of a Statewide Stroke Response Plan—S.B. 330

By Senators Deuell and Van de Putte—House Sponsor: Representative McReynolds

Strokes account for a significant number of deaths in Texas. Each minute that elapses without treatment significantly reduces a stroke victim's chance for survival. This bill:

Requires the appointment of a stroke committee no later than January 1, 2006, to assist in the development of a statewide stroke emergency transport plan as specified in the Act.

Sets forth the composition and duties of the stroke committee.

Requires the emergency medical services advisory council, with the assistance of the stroke committee and in collaboration with the Texas Council on Cardiovascular Disease and Stroke, to develop a statewide stroke emergency transport plan and stroke facility criteria.

Sets forth the requirements for the stroke emergency transport plan.

Requires the stroke committee, in developing the stroke emergency transport plan and stroke facility criteria, to consult the criteria for stroke facilities established by national medical organizations such as the Joint Commission on Accreditation of Healthcare Organizations.

Authorizes the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules regarding a statewide stroke emergency transport plan and stroke facility criteria based on recommendations from the advisory council.

Authorizes the advisory council, not later than January 1, 2007, to develop a statewide stroke emergency transport plan and stroke facility criteria and requires the advisory council to submit a report of the statewide stroke emergency transport plan to the governor, lieutenant governor, speaker of the house of representatives, and executive commissioner of HHSC.

Women's Health Care Services Demonstration Project—S.B. 747

By Senator Carona et al.—House Sponsor: Representative Luna

Currently, Texas women seeking preventative health and family planning services, who are Medicaid clients, are only eligible if they are living at or below 17 percent of the federal poverty level (FPL). Under federal Medicaid rules, the federal government provides a 90/10 match for these services. This bill:

Requires the Health and Human Services Commission (HHSC) to develop a five-year demonstration project in the state Medical Assistance (Medicaid) program relating to preventive health and family planning.

Authorizes women eligible to participate in the demonstration project to receive appropriate preventive health and family planning services, including: medical history recording and evaluation; physical exams; health screenings, including diabetes and certain cancers; counseling and education on contraceptive methods, except regarding emergency contraception; provision of contraceptives, except for emergency contraceptives; risk assessment; and referral of medical problems.

Establishes that a woman is eligible to participate in the project if she is at least 18 years old; has a net family income at or below 185 percent of the FPL; participates in or receives benefits under certain health and human services programs; is presumed eligible for one of the specified programs; or is a member of a family that contains at least one person who participates in or receives benefits under one of these programs.

Requires the Department of State Health Services (DSHS) to ensure that the standards of care provided to a woman participating in the demonstration project are consistent with the requirements of law and current best practices for the provision of public health services.

Requires DSHS to develop procedures for determining and certifying eligibility for services under the demonstration project at the point of service delivery, using integrated procedures that minimize duplication of effort by providers, DSHS, and other state agencies.

Prohibits DSHS from using a procedure that would require a cost in excess of 10 percent of the total costs of actual preventive health and family planning services provided under the demonstration project.

Authorizes the eligibility procedure to provide for expedited determination and certification using a simplified form requiring only family income and family size.

Requires DSHS to compile a list of potential funding sources a woman participating in the demonstration project may be able to use to help pay for treatment for health problems identified using services provided under the demonstration project and for which the woman is not eligible to receive treatment under the medical assistance program or the demonstration project.

Requires providers of services under the demonstration project to comply with requests made by DSHS for information necessary for DSHS to make efficient use of money spent for the operation and administration of the demonstration project, report and provide information required by federal law, and compile the report to the legislature.

Requires DSHS, not later than December 1 of each even-numbered year, to submit a report to the legislature regarding its progress in establishing and operating the demonstration project.

Requires DSHS to ensure the money spent under the demonstration project, regardless of the funding source, is not used to perform or promote elective abortions.

Prohibits DSHS, for the purpose of the demonstration project, from contracting with entities that perform or promote elective abortions or are affiliates of entities that perform or promote elective abortions.

Transfer of Money for Community Based Services—H.B. 1867

By Representative Naishtat—Senate Sponsor: Senator Zaffirini

Recognizing the benefit of authorizing the transfer of funds for individuals moving from a nursing facility to community-based programs, the 78th Legislature, Regular Session, 2003, directed the Texas Department of Human Services, currently the Texas Department of Aging and Disability Services, through Rider 28, to transfer funds when a client relocates from a nursing facility to community care services.

H.B. 1867 statutorily ensures that funding will follow an individual by requiring the transfer of funds as needed to provide community-based services for an individual who leaves a nursing facility to live in the community and receive services in a community waiver program. This bill:

Requires the Health and Human Services Commission (HHSC) to quantify the amount of money appropriated by the legislature that would have been spent during the remainder of a state fiscal biennium to care for a person who lives in a nursing facility but who is leaving that facility before the end of the biennium to live in the community with the assistance of community-based services.

Requires the executive commissioner of HHSC, notwithstanding any other state law and to the maximum extent allowed by federal law, to direct, as appropriate, the comptroller of public accounts or HHSC or a health and human services agency, at the time the person leaves the nursing facility, to transfer certain amounts as necessary.

Requires HHSC to ensure that the amount transferred is redirected by it or the health and human services agency, as applicable, to one or more community-based programs in the amount necessary to provide community-based services to the person after the person leaves the nursing facility.

Authorizes delay of implementation until any necessary federal waivers or authorizations are obtained.

Reporting by Convalescent and Nursing Homes and Related Institutions—S.B. 48

By Senator Nelson—House Sponsor: Representative Hupp

The Centers for Medicare and Medicaid Services (CMS) requires nursing facilities certified to accept Medicare or Medicaid beneficiaries to complete and transmit information that provides the basis for comprehensive assessments of long-term care residents and for monitoring quality of care, referred to as the Minimum Data Set. Currently, this reporting requirement does not apply to licensed-only nursing facilities not participating in Medicare or Medicaid, nor to individuals residing in non-certified units of nursing homes. The Department of Aging and Disability Services (DADS) needs this information to be able to systematically study or report on resident outcomes in all nursing facilities or assess the quality of care provided to residents. This bill:

Authorizes DADS to require an institution to submit information, including Minimum Data Set Resident Assessments, necessary to ensure the quality of care in institutions.

Provides that information submitted to DADS that identifies a resident of an institution is confidential and not subject to disclosure under Chapter 552, Government Code.

Requires the Health and Human Services Commission to ensure that rules governing the determination of rates paid for nursing homes provide for the reporting of all costs, without regard to whether a cost is an allowable cost for reimbursement under the medical assistance program, with certain exceptions.

Authorizes DADS to adopt standards related to the reporting requirements.

Medicaid Services for Persons with Chronic Kidney Disease—H.B. 1252

By Representative Guillen et al.—Senate Sponsor: Senator Zaffirini

Chronic renal failure affects an estimated 44,200 Texans, and diabetes and hypertension are two of the most common causes, accounting for approximately two-thirds of the cases of chronic kidney failure. This bill:

Amends Section 533.009(a), Government Code, to include chronic kidney disease and its medical complications as one of the health conditions for which Medicaid managed care organizations may provide disease management.

Provides that if a managed care organization implements such a program, it must use generally recognized clinical practice guidelines and lab assessments that identify kidney disease on the basis of impaired kidney function or the presence of kidney damage.

Adds chronic kidney disease to the list of conditions for which the Health and Human Services Commission (HHSC) may pursue disease management contracts.

Requires providers of disease management to develop a program of screening for and diagnosis and treatment of chronic kidney disease and its medical complications under the medical assistance program.

Authorizes HHSC to modify an existing contract between the commission and a provider of a disease management program under the medical assistance program or between the commission and a managed care organization under the medical assistance program, as applicable, to provide program services to persons with chronic kidney disease under the medical assistance program.

Authorizes HHSC to seek necessary federal authorization or waivers, and to delay implementation until necessary federal approvals are received.

Medical Assistance for Dually Eligible Individuals—H.B. 1502

By Representative John Davis—Senate Sponsor: Senator Nelson

Federal law required that state Medicaid programs pay any applicable deductible or coinsurance amounts for Medicare services provided to individuals who are dually eligible for both the Medicare and Medicaid programs until 1997 when the federal statute allowed states to reduce or eliminate those deductible or coinsurance payments to an amount which, when combined with the Medicare payment, would equal the rate set by the state for a comparable Medicaid covered service.

H.B. 2292, 78th Legislature, Regular Session, 2003, included language that was intended to require the state Medicaid program to eliminate the payments of coinsurance or deductible amounts that would otherwise be required to be paid on behalf of dually eligible persons, if the rate for a comparable Medicaid covered service were lower than the amount paid by Medicare. However, the requirement for comparable services restricts the applicability of this provision. This bill:

Repeals Section 32.050(f) (relating to Medicare deductibles and coinsurance payments for ambulance services paid for by the medical assistance program), Human Resources Code.

Integrated Care Management Model of Medicaid Managed Care—H.B. 1771

By Representative Delisi et al.—Senate Sponsor: Senators Nelson and Lindsay

Texas is trying to identify innovative approaches for reducing health care costs while promoting better quality and patient outcomes. A longstanding goal of the legislature is to develop a comprehensive care management system that meets the needs of Medicaid recipients, constrains health care expenditures, and targets health care dollars to improved patient outcomes.

The Purpose of H.B. 1771 is to establish an integrated care management model of Medicaid managed care to improve patient health and social outcomes, improve access to care, constrain health care costs, and integrate the spectrum of acute care and long-term care services and supports. This bill:

Requires the executive commissioner of the health and human services commission (executive commissioner) (HHSC), by rule, to develop an integrated care management model of Medicaid managed care (model).

Provides that the model is a noncapitated primary care case management model of Medicaid managed care with enhanced components to achieve certain results.

Requires the executive commissioner, in developing the model, to ensure that the model utilizes managed care principles and strategies to assure proper utilization of acute care and long-term care services and supports.

Sets forth component requirements of the model.

Provides that for the purposes of this chapter, the model is a managed care plan.

Authorizes HHSC to contract with one or more administrative services organizations (organization) to perform the coordination of care and other services and functions of the integrated care management model.

Authorizes HHSC to require that each organization contracting with HHSC assume responsibility for exceeding administrative costs and not meeting performance standards in connection with the provision of acute care and long-term care services and supports under the terms of the contract.

Authorizes HHSC to include in a contract awarded a written guarantee of state savings on Medicaid expenditures for recipients receiving services provided under the model.

Authorizes HHSC to require that each organization contracting with HHSC establish pay-for-performance incentives for providers to improve patient outcomes.

Defines "administrative services organization."

Authorizes the executive commissioner to appoint an advisory committee to assist the executive commissioner in the development and implementation of the model.

Provides that the advisory committee is subject to Chapter 551 (Open Meetings).

Requires HHSC to require each organization contracting with HHSC to perform services to coordinate with, use, and otherwise interface with the fee-for-service claims payment contractor operating in this state on August 31, 2005, until the date the claims payment contract expires, subject to renewal of the contract.

Authorizes HHSC to require each organization contracting with HHSC to perform services to incorporate disease management into the model established utilizing the Medicaid disease management contractor operating in this state on November 1, 2004, until the date the disease management contract expires, subject to renewal of the contract.

Authorizes delay of implementation until any necessary federal waivers or authorizations are obtained.

Medicaid Health Literacy Pilot Program—H.B. 2463

By Representative Villarreal et al.—Senate Sponsors: Senators Janek and Lucio

Medicaid programs are funded through a state or local government share combined with matching funds from the federal government. In Texas, the federal government provides approximately \$1.56 for every \$1 of state or local tax revenue used in the Medicaid program. Local government entities have been working with healthcare providers to supply the local funding necessary to draw the additional federal funds that Texas providers are currently entitled to receive for providing services to the Medicaid and uninsured population.

A provider-based tax levied on a defined class of healthcare services in a locality, such as all hospital outpatient services within a particular county, can generate local funds eligible for federal matching funds. Once implemented at the state level, the entire funding mechanism must receive federal approval. A special purpose district would take the funds generated through a local tax and transfer them to the comptroller of public accounts who, in turn, certifies them for the federal match. These local and federal matching funds are then paid by the Texas Health and Human Services Commission to the qualifying healthcare providers in the community from which the funds originated. This bill:

Implements this approach through a special purpose district known as a healthcare funding district that would levy the tax.

Prevention of Medicaid Fraud—S.B. 563

By Senator Janek—House Sponsor: Representative Delisi

Chapter 36 (Texas Medicaid Fraud Prevention Act), Human Resources Code, provides a mechanism for a private person who has knowledge of actions taken by companies or individuals to defraud the Texas Medicaid program to file suit against the wrongdoer under seal and provide evidence to the attorney general. The attorney general may then investigate, and, if warranted, intervene in the lawsuit. This bill:

Establishes offenses and penalties under the Texas Medicaid Fraud Prevention Act.

Clarifies confidentiality and immunity provisions of the Texas Medicaid Fraud Prevention Act.

Amends penalty provisions relating to violations of the Texas Medicaid Fraud Prevention Act.

Clarifies the investigative and civil enforcement authority and enhances the ability of the Office of the Attorney General (OAG) to recover for the state restitution plus double damages, prejudgment interest, civil penalties of \$1,000 to \$10,000 for each unlawful act, and reimbursement of OAG's reasonable attorneys' fees, expenses, and costs.

Authorizes the Health and Human Services Commission (HHSC) to implement statewide rollout of the Medicaid fraud reduction pilot if deemed cost-effective.

Requires HHSC to adopt a plan to implement the program statewide in phases.

Sets forth the requirements for the plan and requires HHSC to seek comment from stakeholders in the state Medicaid program when developing the plan.

Requires HHSC to perform certain evaluations relating to implementation of the plan.

Medicaid Buy-In Program for Employed Persons with Disabilities—S.B. 566

By Senators Deuell and Zaffirini—House Sponsor: Representative Delisi

H.B. 3484, enacted by the 78th Legislature, Regular Session, 2003, authorized the Texas Department of Health, now the Texas Department of State Health Services, to study the establishment of a Medicaid buy-in program that would allow persons with disabilities to accept employment without losing Medicaid benefits. The study of the Medicaid buy-in program was completed and the program is ready for implementation. This bill:

Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) to develop and implement a Medicaid buy-in program for people with disabilities who are authorized to participate under the Ticket to Work and Work Incentives Improvement Act of 1999 (Pub. L. No. 106-170) or the Balanced Budget Act of 1997 (Pub. L. No. 105-33).

Requires the executive commissioner to adopt rules in accordance with federal law that provide for eligibility requirements for the program and requirements for participants in the program to pay premiums or cost-sharing payments.

Requires the executive commissioner to implement the program no later than December 1, 2005.

Requires the executive commissioner to consider the proposal for the program that was submitted to the Health and Human Services Commission by the work group on health care options for people with disabilities.

Medical Assistance in Alternative Community-Based Care Settings—S.B. 626

By Senator Zaffirini—House Sponsor: Representative John Davis

Under the community-based alternatives program, the Department of Aging and Disability Services (DADS) adopted individual cost ceilings equal to the cost of serving an individual in a nursing home to ensure that the waiver program would be a cost-neutral alternative to a nursing home. This bill:

Applies an individual cap of 133.3 percent of an individual's cost limit for those persons in waiver programs whose cost may exceed the allowable amount.

Prohibits the Health and Human Services Commission (HHSC) or an agency operating part of the medical assistance program from providing services under a medical assistance waiver program to a person receiving medical assistance if the cost of providing those services exceeds the individual cost limit specified in the medical assistance waiver program (program).

Requires HHSC or an agency operating part of the medical assistance program to continue to provide services under a program to a person who is receiving those services on September 1, 2005, at a cost that exceeds the individual cost limit specified in the medical assistance waiver under certain circumstances.

Authorizes HHSC or an agency operating part of the medical assistance program to continue to provide services under a program to certain persons who are ineligible to receive those services if continuation of those services is

necessary for a person to live in the most integrated setting appropriate to the needs of the person, and does not affect compliance with the federal cost-effectiveness and efficiency requirements of the medical assistance waiver program under 42 U.S.C. Sections 1396n(b) and 1396n(c)(2)(D).

Authorizes HHSC or an agency operating part of the medical assistance program to continue to provide services under a program to certain persons who are ineligible to receive those services if the cost of providing those services to a person under the medical assistance waiver program does not exceed 133.3 percent of the individual cost limit specified in the medical assistance waiver program, and continuation of those services does not affect compliance with the federal cost-effectiveness and efficiency requirements of the medical assistance waiver program under 42 U.S.C. Sections 1396n(b) and 1396n(c)(2)(D).

Authorizes the executive commissioner of HHSC to adopt rules under which HHSC or an agency operating part of the medical assistance program is authorized to exempt a person from the cost limit established under this Act.

Provides that this Act applies to a person receiving medical assistance on or after the effective date of this Act, regardless of when eligibility for that assistance was determined.

Audits of Medicaid Providers—S.B. 630

By Senator Van de Putte—House Sponsor: Representative Gonzalez Toureilles

Currently, there are no established procedures and rules for audits of providers who contract with the Health and Human Services Commission (HHSC) under the Medicaid program. This bill:

Amends the Human Resources Code by adding provisions relating to the auditing of providers.

Requires the executive commissioner of HHSC to adopt rules governing the audit of providers in the medical assistance program and sets forth certain requirements for said rules.

Exempts a computerized audit conducted using the Medicaid Fraud Detection Audit system or an audit or investigation of fraud and abuse conducted by the Medicaid fraud control unit of the office of the attorney general, the office of the state auditor, the office of the inspector general, or the office of inspector general in the United States Department of Health and Human Services.

Medicaid and Other Health and Human Services—S.B. 1188

By Senator Nelson—House Sponsor: Representative Delisi

During the past two legislative sessions, efforts have been made to streamline the administration of, maximize funding for, improve recipient outcomes in, and increase the cost effectiveness of the Medicaid program. This bill:

Requires the executive commissioner of the Health and Human Services Commission (HHSC) to establish an office of community collaboration (office).

Provides that the office is responsible for collaborating with community, state, and federal stakeholders to improve the elements of the health care systems that are involved in the delivery of Medicaid services; and sharing with Medicaid providers, including hospitals, any best practices, resources, or other information regarding improvements to the health care system.

Requires HHSC to ensure that the Medicaid finance system is optimized and authorizes HHSC to perform tape matches of Medicaid recipients with insurers or to request information for each enrollee, beneficiary, subscriber, or policyholder of an insurer.

Caps reimbursement to insurers and plan administrators for data matches and requires reimbursement for administrative expenses associated with data matches.

Requires HHSC to make every effort to improve data analysis and integrate available information associated with the Medicaid program.

Requires HHSC to use the decision support system in HHSC's center for strategic decision support for this purpose and to modify or redesign the system to allow for the data collected by the Medicaid program to be used more systematically and effectively for Medicaid program evaluation and policy development.

Requires HHSC to develop or redesign the system as necessary to ensure that the system:

- incorporates program enrollment, utilization, and provider data that are currently collected;
- allows data manipulation and quick analysis to address a large variety of questions concerning enrollment and utilization patterns and trends within the program;
- is able to obtain consistent and accurate answers to questions;
- allows for analysis of multiple issues within the program to determine whether any programmatic or policy issues overlap or are in conflict;
- includes predefined data reports on utilization of high-cost services that allow program management to analyze and determine the reasons for an increase or decrease in utilization and immediately proceed with policy changes, if appropriate;
- includes any encounter data with respect to recipients that a managed care organization that contracts with the commission under Chapter 533 receives from a health care provider under the organization's provider network; and
- links Medicaid and non-Medicaid data sets, including data sets related to the Medicaid program, the Temporary Assistance for Needy Families program, the Special Supplemental Nutrition Program for Women, Infants, and Children, vital statistics, and other public health programs.

Requires HHSC to ensure that all Medicaid data sets created or identified by the decision support system are made available on the Internet to the extent not prohibited by federal or state laws regarding medical privacy or security.

Requires HHSC, if privacy concerns exist or arise with respect to making the data sets available on the Internet, to make every effort to make the data available through that means either by removing information by which particular individuals may be identified or by aggregating the data in a manner so that individual records cannot be associated with particular individuals.

Requires HHSC to allow for sufficient opportunities for stakeholder input in the modification or redesign of the decision support system in HHSC's center for strategic decision support through certain means.

Requires HHSC to use existing resources to reduce Medicaid administrative requirements and to improve Medicaid administration by any method determined to be cost effective.

Requires audits of certain Medicaid programs.

Authorizes HHSC to enter into an agreement with a manufacturer to operate a pilot program to evaluate the benefits and cost-effectiveness of providers using graphical electronic medical record systems, in lieu of the manufacturer providing supplemental rebates.

Requires HHSC to establish fee schedules for dental services and durable medical equipment in long-term care facilities.

Requires HHSC to implement a system to audit the Medicaid hospice care system to ensure correct billing for pharmaceuticals.

Requires HHSC to improve its administration of Medicaid managed care contracts.

Requires contracts between HHSC and a managed care organization to include requirements that Federally Qualified Health Centers (FQHCs) or Rural Health Clinics be reimbursed at specified allowable rates for services provided after regular business hours.

Authorizes HHSC to develop a system of selective contracting with providers for non-emergency inpatient hospital services to Medicaid recipients.

Requires HHSC to create and coordinate efficiencies for case management initiatives and optimize federal and state funding for case management services across all health and human services agencies.

Requires HHSC to implement a Medicaid recipient and provider education campaign to improve patient outcomes and maximize cost-effectiveness.

Requires HHSC to identify and integrate funds currently being spent on education for Medicaid recipients.

Requires that by December 1, 2005, HHSC must determine whether a Medicaid medical information telephone hotline pilot program is likely to result in net cost savings. The pilot program would have the following characteristics: (a) physicians would be available by telephone to provide medical information for recipients; (b) the pilot would include up to 100,000 Medicaid recipients in at least two counties; and (c) at least 50 percent of the pilot participants must be in the Medicaid Health Maintenance Organization managed care model.

Authorizes HHSC to adopt Medicaid reimbursement rates for nursing services determined to provide a cost-effective alternative to hospitalization and, if cost-effective, for group appointments with providers for certain diseases and conditions specified by rule.

Authorizes Medicaid reimbursement for a medical consultation provided by a physician or other health care provider using the Internet, as a cost-effective alternative to an in-person consultation, if an appropriate procedure code is developed by the Centers for Medicare and Medicaid Services.

Requires HHSC to develop and implement a comprehensive plan to reduce the use of hospital emergency room services by Medicaid recipients.

Authorizes a recipient of medical assistance to receive services from a licensed psychologist, and licensed marriage and family therapist, a licensed professional counselor, or a licensed master social worker, as defined by Section 505.002, Occupations Code, if the selected person is authorized by law to perform the service or procedure.

Maintains a period of six months of eligibility for children in Medicaid.

Requires HHSC to develop an integrated care management model of Medicaid managed care and sets forth the required components of the model.

Authorizes the executive commissioner of HHSC to appoint a Statewide Integrated Care Management Advisory Committee to assist the executive commissioner in the development and implementation of the integrated care management model.

Authorizes HHSC to require each administrative services organization to incorporate disease management into the integrated care management model.

Requires HHSC to disclose to pharmaceutical manufacturers prior to or during supplemental rebate agreement negotiations any clinical edits or clinical protocols that might be imposed on a particular category of drugs on the preferred drug list during the contract period.

Prohibits the provision of an erectile dysfunction medication under the Medicaid vendor drug program to a person required to register as a sex offender to the maximum extent federal law allows the denial of that medication.

Requires a physician who provides Medicaid health care services to a pregnant woman to inform the woman of the health benefits for which the woman or the woman's child may be eligible under the state child health plan.

Abolishes certain legislative oversight committees and the Interagency Council on Pharmaceuticals Bulk Purchasing.

Requires HHSC to explore its authority under federal law to offer, and the cost and feasibility of offering, a stipend paid by the Medicaid program to a person to cover the cost of a private health insurance plan as an alternative to providing traditional Medicaid services for the person; a premium payment assistance through the Medicaid program for long-term care insurance for a person with a health condition that increases the likelihood that the person will need long-term care in the future; and a long-term care partnership between the Medicaid program and a person under which the person pays the premiums for long-term care insurance and the Medicaid program provides continued coverage after benefits under that insurance are exhausted.

Requires HHSC to consider whether other state incentives that could encourage persons to purchase health insurance plans or long-term care insurance are feasible, including offering tax credits to businesses to increase the availability of affordable insurance.

Authorizes HHSC, if it determines that any of the options described above are feasible and cost-effective, to make efforts to implement those options to the extent they are authorized by federal law and to request any necessary waivers from the Centers for Medicare and Medicaid Services as soon as possible after determining that an option is feasible and cost-effective.

Voluntary Inpatient Mental Health Services for Teenagers—H.B. 224

By Representatives Corte—Senate Sponsor: Senator Shapiro

During the 78th Legislature, Regular Session, 2003, H.B. 21 was enacted to allow the parents of minors between the ages of 16 and 18 to request admission to inpatient mental health facilities for their children. The procedure for discharge of such patients and for treatment of such patients who refuse psychoactive medication when admitted under these circumstances was not addressed. This bill:

Requires a facility, on receipt of a written request for discharge from a patient who is younger than 18 years of age, admitted for voluntary inpatient mental health services, to consult with the patient's parent, managing conservator, or guardian regarding the discharge.

Requires a facility, if the parent, managing conservator, or guardian objects in writing to the patient's discharge, to continue treatment of the patient as a voluntary patient.

Adds an exception to the prohibition against a person administering a psychoactive medication to a patient receiving voluntary or involuntary mental health services who refuses the administration to allow such administration if the patient is younger than 16 years of age, or the patient is younger than 18 years of age and is a patient admitted for voluntary mental health services, and the patient's parent, managing conservator, or guardian consents to the administration on behalf of the patient.

Local Mental Health and Mental Retardation Authorities—H.B. 2572

By Representative Truitt et al.—Senate Sponsor: Senator Janek

Changes made to Chapters 533 and 535, Health and Safety Code, during the 78th Legislature, Regular Session, 2003, restricted the types of services that can be provided by local mental health and mental retardation authorities which adversely affected the local service delivery. This bill:

Authorizes mental retardation authorities to provide Intermediate Care Facilities for Persons with Mental Retardation (ICF/MR) and related waiver services if the authority complies with capacity limitations or it is necessary to ensure the availability of services.

Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) (HHSC) to adopt rules to establish the roles and responsibilities of local mental retardation authorities.

Deletes provisions relating to local authorities as providers of last resort and authorizes local mental health authorities to serve as qualified service providers.

Requires the executive commissioner to designate a local mental health authority and a local mental retardation authority in one or more local service areas.

Authorizes the executive commissioner to delegate to the local authorities the authority and responsibility of the executive commissioner, HHSC, or a department of HHSC related to planning, policy development, coordination, including coordination with criminal justice entities, resource allocation, and resource development for and oversight of mental health and mental retardation services in the most appropriate and available setting to meet individual needs in that service area.

Authorizes the executive commissioner to designate a single entity as the local mental health authority and the local mental retardation authority for a service area.

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Prohibits the executive commissioner, in designating local authorities, from decreasing the number of local mental health authorities or local mental retardation authorities from the number that existed on January 1, 2005, except on a request from two or more local authorities, or a determination by the executive commissioner that a local authority has substantially failed to meet the terms and conditions of the performance contract.

Provides that these provisions do not apply to rate setting or the payment rates for intermediate care facilities for the mentally retarded, home and community-based services, Texas home living, and mental retardation service coordination.

Requires the Department of Aging and Disability Services (DADS), before it institutes a change in payment methodology, to:

- evaluate various forms of payment for services including fee-for-service, case rate, capitation, and other appropriate payment methods to determine the most cost-effective and efficient form of payment for services;
- evaluate the effect of each proposed payment methodology on the availability of services in urban and rural service areas, the availability of services for persons who are indigent, and the cost certainty of the delivery of Medicaid rehabilitation services;
- develop an implementation plan for the new payment methodology that integrates certain findings; and
- report its findings and the implementation plan for a new payment methodology to the legislature not later than January 1, 2007.

Authorizes a local mental health authority, in assembling a network of service providers, to serve as a qualified service provider only in certain circumstances.

Authorizes a local mental retardation authority to serve as a provider of ICF-MR and related waiver services only if the authority complies with the limitations prescribed by this Act, or the ICF-MR and related waiver services are necessary to ensure the availability of services and the authority demonstrates to the commission that there is not a willing ICF-MR and related waiver service qualified service provider in the area where the service is needed.

Requires the executive commissioner to adopt rules establishing the roles and responsibilities of local mental retardation authorities and sets forth certain areas that must be addressed in the rules.

Requires a local authority, in making certain eligibility determinations, to offer a state school as an option among the residential services available to an individual who is eligible for those services and who meets the criteria for state school admission, regardless of whether other residential services are available to the individual.

Requires local community mental health and mental retardation centers to document the number of individuals who are eligible for state school services, the number of individuals who meet eligibility who are requesting state school admissions, and the number of individuals who meet eligibility criteria who are referred for state school services.

Requires HHSC to adopt rules related to the performance criteria required of the community mental health and mental retardation centers regarding the provision of information related to services and referral for services.

Requires the executive commissioner, in establishing a local mental retardation authority's role as a qualified service provider of ICF-MR and related waiver programs, by rule, to require the local mental retardation authority to:

- base the authority's provider capacity on the authority's August 2004 enrollment levels for the waiver programs the authority operates and, if the authority's enrollment levels exceed those levels, to reduce the levels by voluntary attrition; and
- base any increase in the authority's provider capacity on the authority's state-mandated conversion from one Medicaid program to another Medicaid program allowing for a permanent increase in the authority's provider capacity in accordance with the number of persons who choose the authority as their provider; the authority's voluntary conversion from one Medicaid program to another Medicaid program allowing for a temporary increase in the authority's provider capacity in accordance with the number of persons who choose the authority as their provider; or other extenuating circumstances as set forth in the Act.

Requires the executive commissioner, in adopting such rules to seek the participation of and comments from local mental retardation authorities, providers, advocates, and other interested.

Requires DADS, at least biennially, to review and determine the local mental retardation authority's status as a qualified service provider in accordance with criteria that includes the consideration of the authority's ability to assure the availability of services in its area, including program stability and viability, the number of other qualified service providers in the area, and the geographical area in which the authority is located.

Requires DADS to ensure that local services delivered further the following goals: to provide individuals with the information, skills, opportunities, and support to make informed decisions regarding the services for which the individual is eligible; to respect the rights, needs, and preferences of an individual receiving services; and to integrate individuals with mental retardation and developmental disabilities into the community in accordance with relevant independence promotion plans and permanency planning laws.

Requires HHSC, if feasible and economical, to use local mental health and mental retardation authorities to implement certain provisions of this Act.

Requires HHSC, not later than January 1, 2007, to submit a report to the governor, lieutenant governor, and speaker of the house of representatives that includes any information the commission finds relevant regarding implementation of certain provisions of this Act, by local mental retardation authorities.

Requires the legislature to establish a joint interim committee to study the local mental health and mental retardation services delivery system and to develop recommendations for improving the provision of services and increasing the accountability for funds management in the system. Sets forth items and goals to be considered by the committee and requires the committee, not later than January 1, 2007, to report its findings and recommendations to the governor, the lieutenant governor, and the speaker of the house of representatives.

Requires the lieutenant governor and the speaker of the house of representatives to determine the composition of the committee to be composed of five members of the senate and five members of the house of representatives, and requires that the presiding officer of the committee be a member designated from the senate.

Administration of Psychoactive Medication to Certain Patients—S.B. 465

By Senator West—House Sponsor: Representative Naishtat

Certain United States Supreme Court rulings require a hearing before a person who is found incompetent to stand trial or not guilty by reason of insanity can be medicated against his or her will while detained in a mental health facility. Additionally, people civilly committed to a state mental health and mental retardation facility can only be medicated against their will after a probate court hearing and a determination that the patient lacks the capacity to

make a decision regarding the administration of the proposed medication and that treatment with the proposed medication is in the best interest of the patient. Under current Texas law, a person criminally committed to a state hospital can be medicated without such judicial findings. This bill:

Authorizes a physician who is treating a patient to, on behalf of the state, file an application in a probate court or court with probate jurisdiction for an order to authorize the administration of a psychoactive medication regardless of the patient's refusal if the patient is under an order for certain inpatient mental health services.

Requires an application filed under this Act to state whether a court order for inpatient mental health services for the patient has been issued and, if so, under what authority it was issued, the proposed method for administering the medication and, if the method is not customary, an explanation justifying the departure from customary methods in the application requirements.

Authorizes the court to issue an order authorizing the administration of one or more classes of psychoactive medication to a patient meeting certain requirements after a hearing, if the court by clear and convincing evidence makes certain findings.

Requires the court, in making the finding that treatment with the proposed medication is in the best interest of the patient, to consider certain factors.

Provides that this Act does not apply to a patient who receives services under an order of protective custody under Section 574.021 (Motion for Order of Protective Custody).

Requires the court to consider certain factors in making a finding relating to a patient ordered to receive inpatient mental health services by a criminal court that the patient presents a danger to himself or herself or others in the inpatient mental health facility in which the patient is being treated as a result of mental disorder or defect.

Provides that an order issued for a patient awaiting trial in a criminal proceeding expires on the date the defendant is acquitted, is convicted, or enters a plea of guilty, or the date on which charges in the case are dismissed.

Requires the issuing court to review every six months an order authorizing treatment under this Act.

Amends the Health and Safety Code to include the administration of the medication, regardless of the patient's refusal, amongst the exceptions to a person being prohibited from administering a psychoactive medication to a patient receiving voluntary or involuntary mental health services.

Sets forth certain provisions relating to a motion to compel medication or court-ordered administration of psychoactive medications.

Authorizes the court, after notice and after a hearing held not later than the fifth day after the defendant is returned to the committing court to authorize the director of a correctional facility to have medication administered to the defendant, by reasonable force if necessary.

Authorizes the court to issue an order if the court finds by clear and convincing evidence that the state has a clear and compelling interest in the defendant obtaining and maintaining competency to stand trial and that no other less invasive means of obtaining and maintaining the defendant's competency exists.

Appeal of Conservatorship Orders—H.B. 409

By Representative Goodman—Senate Sponsor: Senator Nelson

In 2001, the 77th Texas Legislature established specific post-judgment procedures to decrease the amount of time that abused or neglected children have to spend in foster care. The legislature required a losing party in a parental termination case to notify the trial court, in a timely filed "statement of points," what the party planned to address on appeal. Recent appellate court decisions have held that no adverse consequences flow from an appellant's failure to comply with the 2001 legislative enactment. H.B. 409 reaffirms the legislature's expectation that litigants will comply with the notification provision. This bill:

Prohibits an appellate court from considering any issue that was not specifically presented to the trial court in a timely filed statement of the points on which the party intends to appeal or in a statement combined with a motion for a new trial.

Provides that a claim that a judicial decision is contrary to the evidence or that the evidence is factually or legally insufficient is not sufficiently specific to preserve an issue for appeal.

Medical Forensic Documentation in Child Sexual Assault Cases—H.B. 546

By Representative Bailey—Senate Sponsor: Senator Zaffirini

Current law does not require photo documentation of a child sexual assault medical examination. Photo documentation provides for appropriate medical forensic documentation and review. Current medical science provides the ability to videotape as well as take still photographs and many medical facilities have this equipment. This bill:

Requires the forensic portion of a medical examination of a child alleged to be the victim of a sexual assault, in a county with a population of three million or more, to include the production of photo documentation unless the medical professional examining the child determines that good cause for refraining from producing photo documentation exists.

Requires the photo documentation to include images of the child's anogenital area and any signs of injury apparent on the body of the child.

Requires the medical professional conducting the forensic portion of the medical examination, if photo documentation is not produced, to document in the child's medical records the reason photo documentation was not produced.

Provides that the lack of photo documentation during the examination and the reasons behind this lack of photo documentation are admissible at the trial of the alleged sexual assault, but that the lack of photo documentation will not affect the admissibility of other evidence in the case.

Foster Care Payments for Certain Children—H.B. 614

By Representative Puente—Senate Sponsor: Senator Zaffirini

Current law does not require the state to continue to cover foster care costs for a foster child after the child becomes 18 years of age and is still enrolled in an accredited secondary school in a program leading toward a high school diploma. This bill:

Requires the Department of Family and Protective Services to continue to pay the cost of foster care for a child for whom DFPS provides care, including medical care, until the later of the date the child attains the age of 18 or the date the child graduates from high school or ceases to be enrolled in a secondary school in a program leading toward a high school diploma.

Authorizes the executive commissioner of the Health and Human Services Commission to adopt rules that establish criteria and guidelines for the payment of foster care for certain children 18 years of age or older.

Department of Family and Protective Services Personnel Training—H.B. 801

By Representative Uresti et al.—Senate Sponsor: Senator Nelson

Department of Family and Protective Services (DFPS) personnel who receive reports of child abuse and neglect must be properly trained to screen incoming calls and designate appropriate priority levels governing response times by law enforcement and department investigative workers. Inadequate or inappropriate responses to reports of abuse or neglect can lead to the injury or death of a child. This bill:

Requires DFPS to develop, in cooperation with local law enforcement officials and the Commission on State Emergency Communications, a training program for DFPS personnel who receive reports of abuse and neglect.

Requires the training program to include information on the proper methods of screening reports of abuse and neglect and ways to determine the seriousness of a report, including determining whether a report alleges circumstances that could result in the death of or serious harm to a child or whether the report is less serious in nature.

Investigation of Reports of Child Abuse and Neglect—H.B. 802

By Representative Uresti et al.—Senate Sponsor: Senator Nelson

Department of Family and Protective Services (DFPS) caseworkers are responsible for filling out large amounts of paperwork in conjunction with the investigation of reports of child abuse or neglect that have been assigned the highest priority. Some paperwork that caseworkers are responsible for completing could be completed by family members of the child or children whom the report concerns. This bill:

Requires an employee of DFPS who responds to a report that is assigned the highest priority in accordance with DFPS rules to identify, to the extent reasonable under the circumstances, forms and other paperwork that can be completed by members of the family of the child who is the subject of the report.

Requires a DFPS employee to request the assistance of the child's family members in completing that documentation but provides that the employee remains responsible for ensuring that the documentation is completed in an appropriate manner.

Coordinating Council to Prevent Child Abuse and Neglect—H.B. 1685

By Representatives Dukes and Naishtat—Senate Sponsor: Senator Ellis

Texas depends on agencies, departments, and commissions to support efforts to react to and reduce the occurrence of child abuse and neglect by promoting and fostering healthy families, prevention policies, programs, and activities. This bill:

Establishes the Interagency Coordinating Council for Building Healthy Families (council) to facilitate communication and collaboration concerning policies for the prevention of and early intervention in child abuse and neglect among state agencies whose programs and services promote and foster healthy families.

Provides that the council consists of one representative from each of 10 state agencies who are appointed by the executive director or commissioner of each agency.

Requires a representative of an agency appointed to the council to have an overall understanding of the agency's mission and purpose and substantial experience and expertise relating to the administration of the agency's policies, programs, and activities.

Provides that the representative from the Department of Family and Protective Services serves as the presiding officer of the council.

Requires the council to meet at least quarterly and to submit to the lieutenant governor, the speaker of the house of representatives, and the legislature the minutes of each council meeting.

Requires the council, not later than June 1, 2006, to prepare and submit to the lieutenant governor, the speaker of the house of representatives, and the legislature an inventory of the child abuse and neglect prevention and early intervention policies, programs, and activities of each agency represented on the council.

Requires the council, not later than December 1, 2006, to prepare and submit to the lieutenant governor, the speaker of the house of representatives, and the legislature a report containing the council's recommendations for improving the coordination and collaboration of child abuse and neglect prevention and early intervention programs and services among state agencies and the council's recommendation regarding whether to continue the council.

Reports and Investigations of Child Abuse and Neglect—H.B. 1970

By Representative Raymond—Senate Sponsor: Senator Zaffirini

Persons who are licensed or certified by the state or employees of facilities that are licensed or operated by the state and who come into regular contact with children in the course of their jobs are required to report the abuse or neglect of children. Among others included in this category are teachers, nurses, doctors, daycare employees, employees of a clinic or certain health care facilities, juvenile probation officers, and juvenile detention or correctional officers. This bill:

Requires a report of abuse be made to the Department of Family and Protective Services (DFPS), regardless of whether the suspected abuse involves someone responsible for the care, custody, or welfare of the child.

Requires DFPS to send a written report of DFPS's investigation, as appropriate, to the superintendent of the school district.

Family Medical History Reports for Adoptive Children—H.B. 1999

By Representatives Van Arsdale and Vo—Senate Sponsor: Senator Lindsay

Under current law, when a parent voluntarily relinquishes his or her parental rights, or has his or her parental rights terminated, there is no requirement that the parent provide medical history information relating to the parent and the parent's family. The lack of medical history information may have serious health consequences for the child in the future. This bill:

Requires that a parent voluntarily relinquishing his or her parental rights regarding a biological child prepare a medical history report regarding the medical history of the parent and the parent's ancestors.

Requires the Department of Family and Protective Services, in cooperation with the Department of State Health Services, to adopt a form that a parent may use to comply with this Act.

Requires this medical history report to be used in preparing the health, social, educational, and genetic history report that is prepared for children being placed for adoption under the Family Code.

Requires this information to be made available to adoptive parents and other persons as required under the Family Code.

Requires a court, in an action to terminate parental rights, to order each parent to provide such medical information. Provides that a parent may comply with the court's order by completing the medical history report form adopted under this Act.

Emergency Possession of Certain Abandoned Children—H.B. 2331

By Representative Morrison—Senate Sponsor: Senator Nelson

The Texas Legislature enacted the country's first "Baby Moses" law in 1999, allowing mothers to relinquish an unwanted newborn to a designated emergency infant care provider and providing the mother with anonymity and exemption from criminal prosecution. However, differing provisions of the statute governing the anonymity of the mother have led to some confusion among officials who deal with these cases. This bill:

Provides that all identifying information, documentation, or other records regarding a person who voluntarily delivers a child to a designated emergency infant care provider is confidential and not subject to release to any individual or entity except as provided by the Act.

Provides that any pleading or other document filed with a court is confidential, is not public information for purposes of Chapter 552, Government Code, and may not be released to a person other than to a party in a suit regarding the child, the party's attorney, or an attorney ad litem or guardian ad litem appointed in the suit.

Requires the court, in a suit concerning a child for whom the Department of Family and Protective Services (DFPS) assumes care, control, and custody under this Act, to close the hearing to the public unless the court finds that the interests of the child or the public would be better served by opening the hearing to the public.

Provides that unless the disclosure, receipt, or use is permitted by this Act, a person commits an offense if the person knowingly discloses, receives, uses, or permits the use of information derived from records or files or knowingly discloses identifying information concerning a person who voluntarily delivers a child to a designated emergency infant care provider. An offense under this subsection is a Class B misdemeanor.

Provides that DFPS is not required to conduct a search for the relatives of a child for whom the department assumes care, control, and custody under this Act.

Provides that there is a rebuttable presumption that a parent who delivers a child to a designated emergency infant care provider is the child's biological parent and intends to relinquish parental rights and consents to the termination of parental rights with regard to the child.

Provides that a party that seeks to rebut a presumption may do so at any time before the parent-child relationship is terminated with regard to the child.

Requires DFPS, before filing a petition to terminate the parental rights with regard to a child taken into the DFPS custody, to verify with the National Crime Information Center and state and local law enforcement agencies that the child is not a missing child, and obtain a certificate of the search of the paternity registry not earlier than the date the department estimates to be the 30th day after the child's date of birth.

Repeals Section 263.3025(d), Family Code, which provides that DFPS, in preparing the permanency plan for a child taken into possession, is not required to conduct a search for or give preference to the child's relatives for purposes of permanent placement if the department does not have information concerning the child's identity or the identities of the child's parents.

Relating to Protective Services—S.B. 6

By Senator Nelson et al.—House Sponsor: Representative Hupp et al.

Widespread problems have been documented in Texas' existing systems for protecting children and vulnerable adults from abuse and neglect. This bill:

Enacts various reforms of adult and child protective services.

Reforms Child Protective Services by requiring the Department of Family and Protective Services (DFPS) to:

- enter into agreements with other states for the exchange of child abuse and neglect reports;
- use highly skilled caseworkers to screen out less serious cases of abuse and neglect if a child's safety can be assured without further investigation;
- audiotape or videotape all interviews with children during the investigation stage. Section 1.22 would require the county attorney, district attorney, or criminal district attorney to assist DFPS by requesting the court to issue an ex-parte order requiring the Texas Crime Information Center to place members of a family the agency is attempting to locate on a child safety check alert list;
- collaborate with law enforcement agencies to provide to DFPS investigators and law enforcement officers responsible for investigating reports of abuse and neglect joint training relating to methods to effectively conduct joint investigations and requires the training to include information on interviewing techniques, evidence gathering, and testifying in court for criminal investigations, as well as instruction on rights provided by the Fourth Amendment to the United States Constitution;
- employ or contract with medical/law enforcement professionals throughout the state to provide forensic support and assist caseworkers;
- employ or contract with subject matter experts to consult with caseworkers;
- perform a background and criminal history check of each individual identified as a potential caregiver on a child placement resources form, and a home study of the most appropriate caregiver if there is one;
- to expand the use of tele- and video-conferencing, in cooperation with district and county courts;
- enter into agreements with other states to allow for the exchange of information relating to a child for whom the agency is or was the managing conservator;

- either contract directly with private agencies as part of community-centered networks for the provision of all necessary substitute care and case management services or use an independent administrator;
- evaluate the performance of independent administrators, monitor service, monitor service quality, and perform numerous oversight functions;
- assess whether children entering foster care have a developmental disability or mental retardation;
- develop and procure relative and other designated caregiver placement programs;
- implement a mobile technology project and modify the design of its automated case management system;
- develop a program to provide for the timely replacement of caseworkers and trainees hired in anticipation of vacancies;
- provide enhanced training for child protective services caseworkers, such as requiring core curriculum and advanced training before caseworkers transfer to a new specialty;
- implement a staffing and workload distribution plan for child protective services;
- perform certain tasks related to the regulation of child-placing agencies; periodically inspect a random sample of agency homes, establish minimum qualifications and training requirements for inspectors, and administer an examination program for inspectors; and
- identify, to the extent reasonable under the circumstances, forms and other paperwork that can be completed by members of the family of the child who is the subject of the report and request the assistance of the child's family members in completing that documentation.

Privatizes certain child welfare functions.

Requires all substitute care and case management services for children in DFPS managing conservatorship be provided by child-care institutions and child-placing agencies on and after September 1, 2011.

Authorizes DFPS to provide these services only in an emergency or as provider of last resort.

Requires DFPS to develop a comprehensive strategy for contracting for management support from independent administrators on a regional basis.

Requires DFPS, if cost-beneficial, to implement a transition plan to transfer the procurement, management, and oversight of substitute care and case management services to an independent administrator.

Requires independent third-party evaluations of the transition.

Requires the Health and Human Services Commission (HHSC) and DFPS to adopt a transition plan by March 1, 2006.

Sets forth the elements to be included in the plan, including:

- an implementation plan for transferring all DFPS foster homes to private child-placing agencies;
- a process for assessing the needs of children transferred to a private provider; and
- a description of how the agency will shift to competitive procurement.

Sets forth the timeline for completion of the transition.

HEALTH AND HUMAN SERVICES/PROTECTIVE & REGULATORY SERVICES

Authorizes a legislative committee or the governor to request the State Auditor's Office (SAO) to perform a management, operations, or financial or accounting audit of a family drug court program.

Requires residential child-care facilities (RCCFs) to report each incident of physical or sexual abuse committed by a child against another child.

Requires the court to make a finding at the status hearing about whether the individual who has the right to consent to medical care for the child has been identified.

Authorizes the court to retain jurisdiction of a suit requesting termination of the parent-child relationship, or appointment of DFPS as managing conservator, for an additional 180 days, if the court finds that extraordinary circumstances exist.

Requires HHSC to develop a medical delivery services model that includes a statewide telemedicine system to link DFPS investigators and caseworkers with pediatric centers of excellence or other medical experts for consultation and develop health and educational passports for foster children with information for the health passport available in electronic format by September 1, 2007.

Increases the family protection fee adopted by commissioners courts from \$15 to \$30, and requires the revenue to be deposited to the credit of the child abuse and neglect prevention trust fund account.

Requires SAO, subject to approval by the legislative audit committee, to conduct a management review of HHSC and DFPS residential contract management employees; make recommendations regarding implementation of financial accountability provisions and processes; and perform financial audits of selected residential contractors.

Authorizes DFPS to develop an Internet-based system so residential child-care contractors can reconcile their accounts.

Reforms Adult Protective Services by requiring the Department of Family and Protective Services (DFPS) to:

- establish a training program that adult protective services employees must complete before initiating an investigation or providing services; and
- ensure that especially complex cases of abuse, neglect, and exploitation are assigned to personnel with appropriate experience and training, and monitored by a special task unit for complex cases.

Establishes an incentive program to encourage certain department employees to obtain professional credentials in social work or psychology.

Transfers responsibility for guardianship services from DFPS to the Department of Aging and Disability Services (DADS).

Establishes a Guardianship Certification Board (board) at the Office of Court Administration (OCA) to certify certain guardians (including private professional and public guardians), and to adopt minimum standards for the provision of guardianship services.

Requires OCA to provide administrative services to the board.

Requires the Texas Education Agency and the Texas Higher Education Coordinating Board to develop outreach programs to ensure that students in foster or other residential care are aware of the availability of the exemption from the payment of certain tuition and fees.

Establishes requirements for and disciplinary procedures relating to attorneys ad litem.

Establishes procedures and requirements relating to parental support of children in foster care.

Establishes penalties for false reporting of child abuse and neglect.

Provides that the privilege of a person's spouse not to be called as a witness for the state does not apply in any proceeding in which the person is charged with an offense under Section 25.01 (Bigamy), Penal Code.

Establishes certain offenses and penalties relating to sexual intercourse with a minor or marriage to a minor and provides certain exceptions.

Prohibits a county clerk from issuing a license if either applicant fails to provide certain required information; fails to submit proof of age and identity; is under 16 years of age and has not been granted a court order; is 16 years of age or older but under 18 years of age and has not presented evidence of parental consent, documents establishing that a prior marriage of the applicant has been dissolved, or a court order.

Sets forth certain requirements relating to an informal marriage.

Authorizes the court to grant an annulment of a licensed marriage of a person under 16 years of age unless a court order has been obtained as provided by this Act.

Sets forth procedures relating to an annulment of marriage.

Provides that a marriage is void if either party to the marriage is younger than 16 years of age or if a party is a current or former stepchild or stepparent of the other party.

Note: This highlight is not a comprehensive summary of S.B. 6.

Management of Behavior of Residents of Certain Facilities—S.B. 325

By Senator Zaffirini—House Sponsors: Representatives Naishtat and Hupp

Injuries and deaths involving the use of emergency interventions, particularly a personal or mechanical restraint, have occurred in a variety of settings. Although the use of such behavioral interventions are sometimes necessary and appropriate, less restrictive alternatives also may be appropriate. While state agencies have made efforts to reduce the use of restraints and seclusions, few have systemic data collection and analysis systems in place to permit assessments regarding the frequency of the usage. The development of a data collection system that can be used across agencies and over time requires a common language, common data collection techniques, and uniform minimum standards. This bill:

Prohibits a person from administering to a resident of a facility a restraint that obstructs the resident's airway, including a procedure that places anything in, on, or over the resident's mouth or nose; impairs the resident's breathing by putting pressure on the torso; or interferes with the resident's ability to communicate.

Authorizes a person to use a prone or supine hold on the resident of a facility only if the person limits the hold to no longer than the period specified by rules; uses the hold only as a last resort when other less restrictive interventions have proven to be ineffective; and uses the hold only when an observer, who is trained to identify the risks associated with positional, compression, or restraint asphyxiation and with prone and supine holds and who is not involved in the restraint, is ensuring the resident's breathing is not impaired.

Provides that small residential facilities and small residential service providers are exempt from certain requirements.

Requires the executive commissioner of the Health and Human Services Commission (HHSC) (executive commissioner) to adopt rules for each health and human services agency that regulates the care or treatment of a resident at a facility, to define acceptable restraint holds that minimize the risk of harm to a facility resident; govern the use of seclusion of facility residents; and develop practices to decrease the frequency of the use of restraint and seclusion.

Requires that the rules permit prone and supine holds only as transitional holds for use on a resident of a facility.

Authorizes a facility to adopt procedures for the facility's use of restraint and seclusion on a resident that regulate, more restrictively than is required by a rule of the regulating health and human services agency, the use of restraint and seclusion.

Feasibility Study of Providing Financial Incentives for CPS Trainees—S.B. 984

By Senator Van de Putte—House Sponsor: Representative Uresti

Child Protective Services (CPS) has experienced problems related to high caseloads which contribute to a high turnover rate and a large number of unfilled vacancies for caseworker positions. Currently, there is no mechanism for reimbursing persons when they pursue training to become CPS caseworkers. This bill:

Requires the Health and Human Services Commission (HHSC) to study the feasibility of providing a financial incentive to individuals to assist the individuals in receiving training for child protective services.

Requires the study to:

- consider the feasibility of creating a private foundation to solicit and receive money used to assist those individuals;
- consider possible means of providing a financial incentive, including educational or living stipends or reimbursement of tuition costs, to assist those individuals and determine the most effective means to deliver the incentives;
- suggest criteria that those individuals must meet to receive the financial incentives;
- estimate the initial cost and annual cost to this state of providing the financial incentives to those individuals; and
- estimate the savings and costs associated with improved training of those individuals that may result from providing the financial incentives.

Authorizes HHSC, in conducting the study, to cooperate as necessary with any appropriate state agency.

Requires HHSC, not later than September 1, 2006, to report the results of the study to the standing committees of the senate and house of representatives with primary jurisdiction over health and human services programs or appropriations.

Abuse-Related Training Program for Youth Camp Employees—S.B. 990

By Senators Janek and Zaffirini—House Sponsor: Representative Eiland

Currently there is no statewide training or examination program regarding sexual abuse for employees of and volunteers at youth camps to provide employees and volunteers with the knowledge needed to recognize and report cases of suspected abuse. This bill:

Prohibits a person holding a license under Chapter 141 (Youth Camps), Health and Safety Code, from employing or accepting the volunteer service of an individual for a position involving contact with campers at a youth camp unless the individual submits to the person, or the youth camp has on file, documentation that verifies the individual within the preceding two years successfully completed the training and examination program required by this Act, or the individual successfully completes an approved training and examination program conducted by the youth camp during the individual's first workweek.

Sets forth requirements relating to the retention of documentation related to the training and examination program.

Requires applicants and employees or volunteers for positions involving contact with campers at a youth camp to successfully complete the training and examination program on sexual abuse and child molestation within a specified time period.

Requires the executive commissioner of the Health and Human Services Commission, by rule, to establish criteria and guidelines for training and examination programs on sexual abuse and child molestation, in accordance with the provisions of the Act and criteria and guidelines developed by the training advisory committee established by the Act.

Authorizes the Department of State Health Services (DSHS) to approve training and examination programs.

Establishes required elements of a training and examination program, and authorizes DSHS to assess a fee to cover administrative costs associated with an application for DSHS approval of a training and examination program.

Requires DSHS to review at least every five years each approved training and examination program to ensure the program continues to meet required criteria and guidelines.

Requires DSHS to appoint a training advisory committee (committee).

Establishes the membership, duties, responsibilities, and operation of the committee.

Provides that a youth camp or individual employed or volunteering at a youth camp is not required to comply with the provisions relating to the training and examination program before June 1, 2006.

Requirements Concerning the Filling of a Prescription—H.B. 836

By Representative Gattis et al.—Senate Sponsor: Senator Ogden

Current law allows a pharmacist to fill a drug prescription with a generically equivalent compound prior to the patient picking up the medicine and allows a patient to refuse the substitution made by the pharmacy. In some cases, however, the patient is unaware that the prescription has been substituted or that the substitution may be contrary to a physician's treatment plan. This bill:

Requires a pharmacist to offer a patient the choice of paying the actual price of the prescription instead of the co-payment amount if the actual price of the prescription is lower than the co-payment amount.

Requires a pharmacist to personally, or through the pharmacist's agent or employee, advise a patient that a generic drug is available at a lower cost before substituting a generic drug for a name brand drug and obtain the consent of the patient before substituting the generic drug.

Requires pharmacies to display a sign in both English and Spanish that indicates that a pharmacist must inform customers of the availability of an equivalent generic drug and ask customers to choose between the generic and the name brand drug.

Relating to the Regulation of Nursing—H.B. 1366

By Representative Ray Allen—Senate Sponsor: Senator Janek

Changes related to the practice of nursing have occurred that necessitate modification of the state's nursing practice statutes. This bill:

Authorizes the Board of Nurse Examiners (board) to establish a criminal investigations unit to investigate suspected criminal acts relating to the practice of nursing.

Authorizes the board to assist federal, state, or local law enforcement agencies in the investigation and prosecution of crimes related to the practice of nursing.

Provides that a person may renew an unexpired license issued under the Act on payment of the required renewal fee, payment of certain costs, and compliance with any other renewal requirements adopted by the board.

Provides that a person is subject to denial of a license or to disciplinary action under this Act for:

- a violation of this Act, a rule or regulation, or an order issued under this Act;
- fraud or deceit in procuring or attempting to procure a license to practice professional nursing or vocational nursing;
- a conviction for, or placement on deferred adjudication community supervision or deferred disposition for, a felony or for a misdemeanor involving moral turpitude;
- conduct that results in the revocation of probation imposed because of conviction for a felony or for a misdemeanor involving moral turpitude;
- use of a nursing license, diploma, or permit, or the transcript of such a document, that has been fraudulently purchased, issued, counterfeited, or materially altered;
- impersonating or acting as a proxy for another person in the licensing examination;

- directly or indirectly aiding or abetting an unlicensed person in connection with the unauthorized practice of nursing, revocation, suspension, or denial of, or any other action relating to, the person's license or privilege to practice nursing in another jurisdiction;
- intemperate use of alcohol or drugs that endangers or could endanger a patient; unprofessional or dishonorable conduct that is likely to deceive, defraud, or injure a patient or the public;
- adjudication of mental incompetence;
- lack of fitness to practice because of a mental or physical health condition that could result in injury to a patient or the public; or
- failure to care adequately for a patient or to conform to the minimum standards of acceptable nursing practice in a manner that exposes a patient or other person unnecessarily to risk of harm.

Requires the board to suspend a nurse's license or refuse to issue a license to an applicant on proof that the nurse or applicant has been initially convicted of certain felony offenses.

Requires the board, on final conviction or a plea of guilty or nolo contendere for an offense, as appropriate, to not issue a license to an applicant, to refuse to renew a license, or revoke a license if the applicant or license holder did not previously disclose the conviction or plea and the fifth anniversary of the date the person successfully completed community supervision or parole has not occurred.

Provides that a person is not eligible for an initial license or for reinstatement or endorsement of a license to practice nursing in this state before the fifth anniversary of the date the person successfully completed and was dismissed from community supervision or parole.

Requires the license of a nurse to be temporarily suspended or restricted on a determination by a majority of the board or a three-member committee of board members designated by the board that, from the evidence or information presented, the continued practice of the nurse would constitute a continuing and imminent threat to the public welfare.

Authorizes a license to be temporarily suspended or restricted without notice or hearing on the complaint if institution of proceedings for a hearing before the State Office of Administrative Hearings (SOAH) is initiated simultaneously with the temporary suspension or determination to restrict and a hearing is held as soon as possible.

Requires SOAH to hold a preliminary hearing not later than the 14th day after the date of the temporary suspension or restriction to determine whether probable cause exists that a continuing and imminent threat to the public welfare exists, and requires the probable cause hearing to be conducted as a de novo hearing.

Requires a final hearing on the matter to be held not later than the 61st day after the date of the temporary suspension or restriction.

Repeals Section 304.010 (Expiration Of Compact), Occupations Code, which provides for the expiration of the Nurse Licensure Compact on December 31, 2005, unless this section is repealed.

Alternative Accreditation for Assisted Living Facilities—H.B. 1558

By Representative John Davis—Senate Sponsor: Senator Janek

Two national accreditation organizations, the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and the Commission on Accreditation of Rehabilitation Facilities (CARF), have worked with states to

develop public-private partnerships to promote the private accreditation standards and practices of human service providers such as hospitals, nursing homes and assisted living facilities. JCAHO has entered into private accreditation partnerships with the Texas Health and Human Services Commission (HHSC) relative to hospitals and nursing homes, but not yet with assisted living facilities. This bill:

Defines "accreditation commission" as JCAHO or CARF.

Requires the Department of Assistive and Disability Services (DADS) to accept an accreditation survey from an accreditation commission for an assisted living facility instead of a state inspection or an annual inspection or survey but only if:

- the accreditation commission's standards meet or exceed the requirements for licensing of the executive commissioner of the Health and Human Services Commission (HHSC) for an assisted living facility;
- the accreditation commission maintains an inspection or survey program that, for each assisted living facility, meets DADS' applicable minimum standards as confirmed by the executive commissioner of HHSC;
- the accreditation commission conducts an on-site inspection or survey of the facility at least as often as required under state law and in accordance with DADS' minimum standards;
- the assisted living facility submits to DADS a copy of its required accreditation reports to the accreditation commission in addition to the application, the fee, and any report required for renewal of a license;
- the inspection or survey results are available for public inspection to the same extent that the results of an investigation or survey conducted by the state are available for public inspection; and
- DADS ensures that the accreditation commission has taken reasonable precautions to protect the confidentiality of personally identifiable information concerning the residents of the assisted living facility.

Requires DADS to coordinate its licensing activities with each of the accreditation commissions.

Provides that, except as specifically provided by this Act, this Act does not limit the department in performing any power or duty under the Act or inspection authorized by law, including taking appropriate action relating to an assisted living facility, such as suspending or revoking a license, investigating an allegation of abuse, exploitation, or neglect or another complaint, assessing an administrative penalty, or closing the facility.

Provides that an assisted living facility is not required to obtain accreditation from an accreditation commission.

Licensing of Massage Therapy and Massage Establishments—H.B. 2696

By Representative Anchia et al.—Senate Sponsor: Senator West

Under current law, massage parlor operators and therapists are required to be registered but are not required to be licensed with the State of Texas. This bill:

Requires massage therapists to be licensed, rather than registered.

Imposes recordkeeping requirements for massage establishments and massage therapists and imposes restrictions and prohibitions on certain activities and forms of attire in massage establishments.

Directs the Department of State Health Services (DSHS) to review and modify rules related to massage therapists and redesign and revise certificates and public information materials.

Requires the executive commissioner of Health and Human Services to adopt rules consistent with this Act that require a massage establishment to contain minimum standards for the issuance, denial, renewal, suspension, revocation, or probation of a license, rather than a certificate of registration, under this chapter; and the provision of massage therapy or other massage services by a massage establishment.

Authorizes a peace officer appointed or employed by a law enforcement agency of a political subdivision of this state to enter the premises of a massage establishment to ensure compliance with this Act and rules adopted under this Act.

Requires DSHS to annually prepare a registry of licensed massage therapists.

Requires DSHS to make the registry available to the public, license holders, other state agencies, and peace officers.

Requires DSHS, on receipt of an application for a license, to conduct a criminal background check on the applicant.

Provides that an applicant is not eligible for a license if the applicant, in the five years preceding the date of the application, has been finally convicted of a misdemeanor involving moral turpitude or a felony.

Requires a massage establishment to properly maintain and secure for each client the initial consultation documents, all session notes, and related billing records; and make available to DSHS on request the information kept.

Provides that a person advertising massage therapy or other massage services is presumed to be engaging in conduct regulated by this Act.

Prohibits a massage establishment from changing the location of the establishment without obtaining a new massage establishment license under this Act.

Authorizes the attorney general, a district or county attorney, a municipal attorney, or DSHS to institute an action for injunctive relief to restrain a violation by a person who is operating an establishment that offers massage therapy or other massage services regulated by this Act and is not licensed under this Act.

Requires the amount of a civil penalty to be not less than \$1,000 or more than \$10,000 for each violation.

Provides that a person commits an offense if the person is required to be licensed under this Act and the person knowingly violates Section 455.205(a) (Prohibited Practices). Provides that an offense under this subsection is a Class B misdemeanor, unless the actor has previously been convicted one or two times of an offense under this subsection, in which event it is a Class A misdemeanor. Provides that if the actor has previously been convicted three or more times of an offense under this subsection, the offense is a state jail felony.

Entitles DSHS to obtain from the department criminal history record information maintained by DSHS that relates to an applicant for a license, the owner or manager of an applicant for a massage establishment license, or a license holder under Chapter 455 (Massage Therapy), Occupations Code.

Limited License to Practice Medicine—S.B. 423

By Senator Carona—House Sponsor: Representative Delisi

Currently, physicians who are foreign medical school graduates and who complete Accreditation Council for Graduate Medical Education fellowships are unable to obtain a Texas medical license. This bill:

Amends the Occupations Code relating to the issuance of a limited license to practice medicine to certain applicants. Authorizes the Texas State Board of Medical Examiners (TSBME) to adopt rules and prescribe fees related to the issuance of a license under this Act that is limited in scope to an applicant by virtue of the applicant's conceded eminence and authority in the applicant's specialty.

Provides that an applicant is eligible for a limited license under this Act on presenting proof satisfactory to TSBME that the applicant:

- is recommended to the board by the dean, president, or chief academic officer of certain medical schools or institutions in this state;
- is expected to receive an appointment at the institution or program making the recommendation;
- has not failed a licensing examination that would prevent the applicant from obtaining a full license not limited in scope in this state;
- has passed a Texas medical jurisprudence examination as determined by TSBME rule;
- has successfully completed at least one year of approved subspecialty training accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association;
- is of good professional character, is not subject to denial of a license, and has not engaged in certain prohibited conduct; and
- meets any other requirements prescribed by TSBME rule adopted under this Act.

Authorizes TSBME to adopt rules that prescribe additional qualifications for an applicant, including education and examination requirements, conditions of employment, and application procedures and to adopt rules that qualify, restrict, or otherwise limit a license issued under this Act.

Authorizes TSBME to define "conceded eminence and authority in the applicant's specialty" and requires TSBME, in adopting rules, to consider certain criteria.

Authorizes TSBME to require that the holder of a license under this Act serve a six-month probationary period during which medical services provided by the license holder are supervised by another licensed physician.

Limits the holder of a license under this Act to the practice of only a specialty of medicine for which the license holder has trained and qualified, as determined by TSBME and prohibits the license holder from practicing medicine outside of the setting of the institution or program, or an affiliate of the institution or program, that recommended the license holder.

Prohibits the license holder from changing the license holder's practice setting to a new institution or program unless the license holder applies for a new license with the recommendation of that institution or program.

Authorizes a license holder to obtain a full license not limited in scope to practice medicine in this state by meeting all applicable eligibility requirements for such license.

Deadline for Passing the Examination for Medical License—S.B. 424

By Senator Carona—House Sponsor: Representative Branch

Currently, an applicant for a Texas medical license must complete three U.S. Medical Licensing Exams within seven years. In addition, the deadline for completing medical board examinations is two years after being awarded a degree. S.B. 424 addresses the situation of dual degree students who often need longer than two years following the awarding of their medical degrees to complete board exams because of their dual degree pursuits. This bill:

Requires an applicant seeking a joint degree (a doctor of philosophy degree and a doctor of medicine degree or doctor of osteopathy degree) to pass each part of the examination within two years of completing graduate medical training.

Provides that an applicant for a medical license has up to 10 years to complete his or her board examinations if the applicant is specialty board certified by a specialty board that is a member of the American Board of Medical Specialties or the Bureau of Osteopathic Specialists or if the applicant has received a faculty temporary license and after twelve months is recommended to the board by the chief administrative officer and president of the institution in which the applicant has practiced.

Extends to 10 years the time frame to pass each part of the examination.

Extends the anniversary date to pass each part of the examination for an applicant seeking a joint degree (a doctor of philosophy degree and a doctor of medicine degree or doctor of osteopathy degree) to the 10th anniversary if the applicant is specialty board certified by a specialty board that is a member of the American Board of Medical Specialties or is a member of the Bureau of Osteopathic Specialists or if the applicant has been issued a faculty temporary license, as prescribed by board rule, and has practiced under such a license for a minimum of 12 months and, at the conclusion of the 12-month period, has been recommended to the board by the chief administrative officer and the president of the institution in which the applicant practiced under the faculty temporary license.

Makes the changes in law made by this Act applicable to a person who files an application with the Texas State Board of Medical Examiners for a license to practice medicine in this state on or after the effective date of this Act or whose license application is pending on the effective date of this Act.

Distribution of Compounded and Prepackaged Drugs to Pharmacies—S.B. 492

By Senator Van de Putte—House Sponsor: Representative Delisi

Medication shortages have occurred in recent years for various reasons and sometimes these shortages can last months or longer resulting in critical products being unavailable for essential patient care demands in hospitals, clinics, and surgical centers. Such medications require compounding and it is necessary to ensure that the process occurs in a controlled and safe pharmacy environment. Compounding pharmacists do not compound if the drug is commercially available and pharmacies do not compound, dispense, sell, or distribute without a physician's order or prescription. This bill:

Authorizes the dispensing, sale, or distribution of compounded drugs to state-licensed physicians for in-house administration and the distribution of compounded and prepackaged products to and from pharmacies under common ownership.

Authorizes the Texas State Board of Pharmacy (TSBP) or a representative of the board to enter and inspect a facility relative to components used in compounding, finished and unfinished products, containers, and labeling of any item.

Authorizes the TSBP representative, except as otherwise provided in an inspection warrant, to inspect, within reasonable limits and in a reasonable manner, a facility's storage, equipment, security, prescription drugs or devices, components used in compounding, finished and unfinished products, or records or to perform an inventory of any stock of prescription drugs or devices, components used in compounding, or finished and unfinished products in a facility and obtain samples of these substances.

Requires a pharmacy, to dispense and deliver a compounded drug, to comply with certain procedures, guidelines, standards, and board rules.

Provides that a Class A pharmacy licensed under Chapter 560 (Licensing of Pharmacies), Occupations Code, is not required to register or be licensed under Chapter 431 (Texas Food, Drug, and Cosmetic Act), Health and Safety Code, to distribute compounded pharmaceutical products to a Class C pharmacy licensed under Chapter 560, Occupations Code. Provides that a Class C pharmacy licensed under Chapter 560, Occupations Code, is not required to register or be licensed under Chapter 431, Health and Safety Code, to distribute compounded and prepackaged pharmaceutical products to other Class C pharmacies licensed under Chapter 560, Occupations Code, and under common ownership.

Provides that a person who engages in wholesale distribution of prescription drugs in this state for use in humans is exempt from this subchapter under certain conditions.

Authorizes a pharmacy to dispense and deliver a reasonable quantity of a compounded drug to a practitioner for office use by the practitioner. Defines "office use" as the provision of drugs by a practitioner; "prepackaging" as the act of repackaging and relabeling drug products from a manufacturer into dose packaging for distribution; and "reasonable quantity" as the amount of a drug that may be reasonably used by the expiration date, the amount that is proper given the intended use, and the amount a pharmacy is capable of compounding.

Requires a pharmacy, to dispense and deliver a compounded drug, to verify the source of raw materials, comply with United States Pharmacopoeia guidelines, and comply with competency standards and board rules.

Expands the definition of "manufacture" to include repackaging that is done in accordance with this Act.

Discounting Prices for Health Care to Uninsured Patients—S.B. 500

By Senator West—House Sponsors: Representatives Taylor and Martinez-Fischer

Chapter 552 of the Texas Insurance Code bars hospitals, physicians, and other health care providers from setting lower prices for an uninsured patient unless the patient is medically indigent. There are a large number of working people in Texas who are uninsured, and may not qualify for a discount because they are not indigent. This bill:

Provides that a health care provider may provide discounts to patients under federal, state, or local indigent health care programs, persons qualifying for indigent health care services or charity care, and uninsured patients.

Clarifies that managed care providers may enter into contracts to provide health care pursuant to a health insurance plan or policy.

Regulation of the Practice of Dentistry—S.B. 610

By Senator Nelson—House Sponsor: Representative Laubenberg

The Texas State Board of Dental Examiners (TSBDE) has identified various administrative needs pertaining to its licensing, enforcement, and legal functions. This bill:

Provides that a dentist or a dental hygienist who is not licensed in this state and who is taking a dental clinical examination offered in this state by an examining body designated by TSBDE is not practicing dentistry under the Health and Safety Code.

Creates an exception to the provision that a dentist or dental hygienist license holder on retired status may not perform any activity regulated under this subtitle by authorizing a dentist on retired status to perform an activity regulated under this subtitle if the dentist's practice consists only of voluntary charity care, as defined by board rule.

Requires TSBDE's rules to prescribe the scope of practice permitted for the retired dentist, the retired dentist's authority to prescribe and administer drugs, and any continuing education requirements applicable to the retired dentist.

Authorizes a person to practice without displaying the person's current registration certificate for not more than 30 days after the date the person receives from TSBDE written confirmation that the person's original license was issued.

Prohibits a dentist from authorizing a dental assistant to make a dental x-ray unless the dental assistant holds an x-ray certificate of registration issued by TSBDE.

Prohibits TSBDE from temporarily suspending a license or permit without notice or hearing unless at the time of temporary suspension TSBDE or the executive committee of TSBDE requests the State Office of Administrative Hearings (SOAH) to set a date for a hearing on the temporary suspension.

Requires the SOAH to hold a hearing not later than the 30th day after the date the license or permit holder is suspended unless the license or permit holder requests a continuance.

Requires TSBDE to suspend a license holder's license on proof that the person has been initially convicted of certain offenses.

Requires TSBDE, on final conviction for said offenses, to revoke the person's license.

Authorizes certain dental assistants to qualify for a pit and fissure sealant certificate by successfully completing a minimum of 16 hours of clinical and didactic education in pit and fissure sealants taken through a dental assisting program accredited by the Commission on Dental Accreditation of the American Dental Association and approved by TSBDE.

Requires a dental assistant to qualify for an x-ray certificate, to pass an examination on completion of a course covering the procedure for making dental x-rays, jurisprudence, and infection control, pass a jurisprudential examination, and to be certified as a dental assistant by the Dental Assisting National Board.

Requires the course and the examination to be tailored to a dental assistant's responsibilities and role in a dental office.

Authorizes the course and examination to be offered through self-study, interactive computer courses, or lecture courses, and to be offered through the Internet and requires the course and examination to comply with rules adopted by TSBDE and to be approved by TSBDE.

Requires TSBDE to create an advisory committee consisting of dentists, dental assistants, and dental assistant educators to advise the board in adopting rules.

Requires TSBDE by rule to set objectives for developing the examination and course and to establish procedures to ensure the integrity of the examination.

Requires the course and examination to comply with TSBDE rules and to be administered by accredited schools or programs or any dental industry professional organization.

Prohibits the board from requiring a person who has successfully completed the course and examination to complete an additional course or examination to renew the registration, unless the person fails to renew the registration within two years of expiration.

Requires the continuing education curriculum of a mandatory continuing education program, developed by TSBDE, by rule, to cover dental assistant duties, procedures for infectious disease control, and the requirements specified by this Act.

Provides a one-year waiver for a dental assistant who is hired for the first time and who has not previously been issued a certificate of registration to make dental x-rays for one year without obtaining a certificate of registration.

Clarifies the ability of a retired dentist to provide voluntary charity care.

The Impact of Niche Hospitals—S.B. 872

By Senator Nelson—House Sponsor: Representative Delisi

Currently, there are laws governing general fraud and abuse applicable to physicians and hospitals, but there are no existing laws specific to physician-owned niche hospitals with limited specialized services. Concerns have also arisen about a potential conflict-of-interest between physician-owners and community and rural hospitals. This bill: Directs the Department of State Health Services (DSHS) to conduct a study regarding the impact of niche hospitals on the financial viability of other general hospitals located in the state.

Requires DSHS to submit a report to the legislature regarding the results of the study no later than December 1, 2006.

Requires the study to include, among other things, a review of the number of deaths by infection each hospital, including each niche hospital, has in a year.

Requires a physician to notify DSHS of any ownership interests held by physicians in a facility.

Requires the Texas State Board of Medical Examiners, in consultation with DSHS, to adopt rules governing the form and content of the notice.

Requires DSHS to use public data to prepare and issue reports that provide information for review and analysis by the Health and Human Services Commission (HHSC) relating to services that are provided in niche hospitals and that are provided by physicians with ownership interest in niche hospitals.

Requires the commissioner of state health services (commissioner) to establish the Advisory Panel on Health Care Associated Infections to conduct a study on the reporting of health care associated infection rates and process measures.

Requires the commissioner, not later than November 1, 2006, to submit a report to the presiding officer of each house of the legislature on the advisory panel's recommendations for legislation regarding the collection and reporting of infection rates, process measures, or both.

Prohibits compensation or reimbursement for travel expenses for members of the panel except for a representative of a state agency on the panel.

Requires that hospitals report to DSHS data on the total emergency room visits, including the percentage of patients examined or treated who were insured or uninsured.

Establishes that a health care provider commits unprofessional conduct if the health care provider, in connection with the provider's professional activities knowingly directs or requires a patient to obtain health care goods or services from a niche hospital in which the health care provider or an immediate family member of the provider has a financial interest, unless the provider makes certain disclosures to the patient.

Quality-of-Care Monitoring Visits to Long-Term Care Facilities—S.B. 874

By Senator Nelson—House Sponsor: Representative Hupp

Currently, quality monitoring visits performed by the Department of Aging and Disability Services (DADS) under Chapter 255, Health and Safety Code, are required to be unannounced. This bill:

Authorizes DADS to conduct announced or unannounced quality-of-care monitoring visits at a nursing facility, assisted living facility, or Intermediate Care Facility for Persons with Mental Retardation.

Regulation of the Practice of Nursing—S.B. 1000

By Senator Madla—House Sponsor: Representative McReynolds

The 78th Legislature, Regular Session, 2003, passed various bills that amended the same provision of the Nurse Practice Act differently. This bill:

Amends the Nurse Practice Act to make conforming and technical corrections.

Deletes references to the Vocational Nurse Act that was repealed.

Provides that data received under this section by the nursing resource section established under Section 105.002 that contains information identifying specific patients or health care facilities is confidential and is prohibited from being released unless all identifying information is removed.

Redefines "professional nursing" and "vocational nursing."

Distinguishes between the surcharge to the license renewal fee charged to a registered nurse and a vocational nurse.

Prohibits a nurse's insignia from containing information other than the registered or vocational nurse designation, in addition to other required information.

Prohibits a person from suspending, terminating, or otherwise disciplining or discriminating against a nurse who refuses to engage in an act or omission relating to patient care that would constitute grounds for reporting the nurse to the Board of Nurse Examiners (BNE) under Subchapter I (Duty to Report Violation), that constitutes a minor incident, or that violates this chapter or a BNE rule if the nurse notifies the person at the time of the refusal that the reason for refusing is that the act or omission constitutes grounds for reporting the nurse to the BNE or is a violation of this chapter or a rule of the BNE.

Requires the practice of vocational nursing to be performed under the supervision of a registered nurse, physician, physician assistant, podiatrist, or dentist.

Authorizes a nurse, in a written, signed report to the appropriate licensing board or accrediting body, to report a licensed health care practitioner, agency, or facility that the nurse has reasonable cause to believe has exposed a patient to substantial risk of harm as a result of failing to provide patient care that conforms to minimum standards of acceptable and prevailing professional, rather than nursing, practice, for a report made regarding a practitioner or statutory, regulatory, or accreditation standards, for a report made regarding an agency or facility.

Includes a description of the ground for reporting a nurse and the extent to which any deficiency in care provided by the reported nurse was the result of a factor beyond the nurse's control rather than a deficiency in the nurse's judgment, knowledge, training, or skill amongst the information that is required to be contained in a written, signed report filed with the board.

Includes the ground for reporting a nurse that preceded the disciplinary action amongst the information that is required to be contained in a report filed with BNE regarding a nurse, or a staffing agency nurse, who has been terminated, suspended for more than seven days, or has received substantive disciplinary action.

Requires the peer review committee to submit a report to BNE that contains the information required by Section 301.403 (Duty of Peer Review Committee to Report). Provides that such a report is not required if the nurse was terminated, voluntarily or involuntarily, and elected not to participate in peer review.

Provides that the requirement that a nursing peer review committee review the nurse and the incident does not subject a person's administrative decision to discipline a nurse to the peer review process or prevent a person from taking disciplinary action before review by the peer review committee is conducted.

Requires a plan to provide that a nurse who has been terminated, either voluntarily or involuntarily, the opportunity to participate in peer review. Provides that, if the nurse elects to not participate in a review, the nurse waives any right to procedural due process under Section 303.002 (General Provisions Regarding Peer Review).

Authorizes BNE to disclose the information to the same extent that BNE may disclose information relating to a complaint under Section 301.466 (Confidentiality).

Requires a nursing peer review committee that conducts a peer review that involves the practice of professional nursing to have registered nurses as two-thirds of its members and authorizes only registered nurses to be voting members.

Requires a nursing peer review committee, if the committee makes an adverse finding against a nurse, to provide the nurse with a detailed description of the basis of its finding.

Alternative Licensure Requirements for Assisted Living Facilities—S.B. 1055

By Senator Janek—House Sponsor: Representative John Davis

Two national accreditation organizations, the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and the Commission on Accreditation of Rehabilitation Facilities (CARF), work with states to develop regulations and promote the private accreditation standards and practices of human service providers such as hospitals, nursing homes and assisted living facilities. Currently, JCAHO has agreements with the Texas Health and Human Services Commission (HHSC) relative to hospitals and nursing homes, but not with assisted living facilities. This bill:

Requires the Department of Aging and Disability Services (DADS) to accept an accreditation survey from CARF or the JCAHO to satisfy assisted living licensure or certification requirements instead of an annual licensing inspection, but only if:

- the accreditation commission's standards meet or exceed the requirements for licensing of the executive commissioner of HHSC for an assisted living facility;
- the accreditation commission maintains an inspection or survey program that, for each assisted living facility, meets applicable minimum standards;
- the accreditation commission conducts an on-site inspection or survey of the facility at least as often as required by Section 247.023 or 247.027 and in accordance with DADS minimum standards;
- the assisted living facility submits to DADS a copy of its required accreditation reports to the accreditation commission in addition to the application, the fee, and any report required for renewal of a license;
- the inspection or survey results are available for public inspection to the same extent that the results of an investigation or survey conducted under Section 247.023 or 247.027 are available for public inspection; and
- DADS ensures that the accreditation commission has taken reasonable precautions to protect the confidentiality of personally identifiable information concerning the residents of the assisted living facility.

Requires DADS to coordinate its licensing activities with each of the accreditation commissions.

Provides that except as specifically provided by this Act, DADS is not limited in performing any power or duty authorized by Chapter 247, Health and Safety Code, or inspection authorized by statute, including taking appropriate action relating to an assisted living facility, such as suspending or revoking a license, investigating an allegation of abuse, exploitation, or neglect or another complaint, assessing an administrative penalty, or closing the facility.

Provides that the bill does not require an assisted living facility to obtain accreditation from an accreditation commission.

Requires the community based alternatives program and the residential care programs, which provide an assisted living option to consumers, to provide a consumer the opportunity to choose an assisted living facility that meets the DADS licensing standards relating to facility construction without regard to the number of units in the facility, if consumers are advised of all other community care options, and the facility has never been licensed by DADS as anything other than an assisted living facility; is not physically connected to a skilled nursing facility; was constructed before September 1, 2005; and otherwise meets all other community care program standards.

Requires HHSC to convene a workgroup composed of providers, consumer advocates, building inspectors, fire marshals, and other individuals as appropriate to study state laws relating to the delivery of personal care services to four or more persons who are unrelated to the proprietor in settings that are not licensed as assisted living facilities,

but are instead settings where one or more residents receive personal care services through one or more home and community support services agencies.

Provides that the purpose of the study is to perform a comprehensive review of the changing environment in the personal care services delivery system to determine if changes in state licensing and regulation are warranted, and if so, what changes should be considered.

Requires the workgroup to consider, among other things:

- state licensing laws;
- the nature, extent, and differences of consumer needs and preferences;
- the qualifications of persons authorized to provide personal care services; and
- the settings in which personal care services are provided, including the life safety codes applicable to those settings.

Requires the workgroup, with the assistance of HHSC, not later than December 1, 2006, to prepare and deliver a report and make recommendations on the issues studied to the governor, the lieutenant governor, and the speaker of the house of representatives.

Requires DADS, not later than June 1, 2007, to accept an accreditation survey and implement the procedures required by Section 247.032, Health and Safety Code, as added by this Act.

First Responder Potential Disease Exposure Notification Procedures—H.B. 162

by Representative McCall—Senate Sponsor: Senator Carona

Currently, persons who stop and render aid in an emergency situation cannot obtain information regarding possible exposure to a reportable disease while providing emergency care. H.B. 162 allows hospitals or local health authorities to notify detention officers, county jailers, and other individuals that they may have contracted a reportable disease from an injured person. It also provides for certain testing procedures and reporting requirements for a reportable disease in an incident involving a deceased person. This bill:

Requires a notice of a positive test result for certain reportable diseases to be given to an emergency medical service personnel, peace officer, detention officer, county jailer, or fire fighter.

Requires notice of the possible exposure to be given by the hospital to the local health authority, by the local health authority to the director of the appropriate department of the entity that employs the emergency medical service personnel, peace officer, detention officer, county jailer, or fire fighter; and by the director to the employee affected.

Applies only to the accidental exposure to the blood or other body fluids of a person who dies at the scene of an emergency or during transport to the hospital involving certified emergency medical services personnel, a firefighter, a peace officer, or a first responder who renders assistance at the scene of an emergency or during transport of a person to the hospital.

Requires a hospital, or certified emergency medical services personnel, or a physician on behalf of the person exposed, following a report of the exposure incident, to take reasonable steps to test the deceased person for communicable diseases.

Requires the hospital or certain medical personnel to provide the test result to the Texas Department of State Health Services or to the local health authority responsible to inform the person exposed and, if applicable, the next of kin of the deceased person regarding the test results.

Requires the hospital, or certain health services personnel, to follow certain prescribed reporting requirements. Provides that this does not impose a duty on a hospital, or certain health services related personnel, to provide any further testing, treatment, or services or to perform further procedures.

Provides that the organization that employs the exposed person or for which the exposed person works as a volunteer in connection with rendering the assistance is responsible for paying the costs of the test.

Requires the funeral establishment, if the deceased person is delivered to a funeral establishment, before a hospital, or certain health services personnel have tested the deceased person, to allow, if requested by the hospital, or certain health services personnel, access to the deceased person for testing under this section. Authorizes such a test conducted to be performed without the consent of the next of kin of the deceased person being tested.

Requires a hospital, or certain health services personnel, that conducts a test to comply with certain confidentiality requirements.

Requires the executive commissioner of the Health and Human Services Commission to adopt rules to implement these provisions.

Municipal Police Officers and Emergency Medical Services—H.B. 233

By Representative Martinez et al.—Senate Sponsor: Senator Lucio

Currently, emergency medical services (EMS) cannot respond to an accident, fire, disaster, or any other emergency situation outside their respective municipality without the scene first being secured by a law enforcement officer of that county or municipality if there is a possible threat of any kind against the ambulance personnel. For various reasons, a municipal police officer may arrive on a crime scene before a county law enforcement officer, but the municipal police officer is not able to secure the area because it lies outside of the officer's jurisdiction. The EMS team is therefore unable to administer emergency care until the officer employed by that jurisdiction arrives and secures the scene. This bill:

Provides a municipality the option to allow a municipal police officer to accompany a municipal ambulance to a scene outside its respective municipality whenever the ambulance personnel can be placed in harm's way.

Thumbprint Identification by Emergency Services Personnel—H.B. 805

By Representatives Martinez and Escobar—Senate Sponsor: Senator Carona

A significant number of individuals transported across the Texas-Mexico border for emergency pre-hospital care do not possess adequate proof of identification posing a significant challenge to efforts at enhanced homeland security along the international border. This bill:

Authorizes emergency medical services personnel or emergency room medical or admissions personnel to take the thumbprint of a person who receives emergency pre-hospital care if the person does not possess personal identification at the time the care is administered; is unconscious; is transported across the Texas-Mexico border by ambulance or helicopter while receiving emergency pre-hospital care; and is delivered to a hospital that has digital fingerprinting capabilities.

Authorizing an Evacuation in Certain Emergency Circumstances—H.B. 3111

By Representative Corte—Senate Sponsor: Senator Janek

The Office of Homeland Security evaluated the state's hurricane preparedness and ability to respond to catastrophic hurricanes, and recommended that local officials' authority with regards to evacuation mandates be clarified. This bill:

Authorizes the county judge or the mayor of a municipality to order an evacuation of all or part of the population from a stricken or threatened area under the jurisdiction and authority of the county judge or mayor if the county judge or mayor considers the action necessary for the preservation of life or other disaster mitigation, response, or recovery.

Authorizes the county judge or the mayor of a municipality to control ingress to and egress from a disaster area under the jurisdiction and authority of the county judge or mayor and control the movement of persons and the occupancy of premises in that area.

Provides that for purposes of this Act, the jurisdiction and authority of the county judge includes the incorporated and unincorporated areas of the county and that to the extent of a conflict between decisions of the county judge and the mayor, the decision of the county judge prevails.

Homeland Security—S.B. 9

By Senator Staples—House Sponsor: Representative Corte

Texas' ability to detect, deter, and respond to acts of terrorism is essential for the safety and security of all its citizens. This bill:

Authorizes the Texas Department of Agriculture (TDA) and the Texas Animal Health Commission (TAHC) to jointly conduct road station and interstate shipment inspections as feasible at strategic points throughout this state and as determined to be appropriate, taking into consideration the significance of plant and animal inspections in proactively protecting this state's borders.

Authorizes TDA to enter into an agreement with a corporation or other private entity to provide goods or services for the establishment and operation of checkpoints or the performance of inspections under this Act.

Establishes the Governor's Interoperable Radio Communications Program.

Requires the Office of the Governor to develop and administer a strategic plan to design and implement a statewide-integrated public safety radio and computer communications system.

Requires the Office of the Governor to develop and administer a plan to purchase infrastructure equipment for state and local agencies and first responders and advise representatives of entities involved in homeland security activities.

Requires that all funds appropriated for the purpose of providing administrative support to the Public Safety Radio Communications Council be transferred from the Department of Public Safety to the Office of the Governor.

Requires the Texas Railroad Commission (TRC) to adopt and enforce safety standards relating to the prevention of damage by a person to a facility under the TRC's jurisdiction.

Repeals provisions relating to the operation of certain machinery near high voltage lines.

Establishes offenses and penalties regarding certain actions relating to critical infrastructure facilities.

Extends the powers of a Special Agent of the United States Secret Service in this state, including the power of arrest, search, and seizure as to misdemeanor offenses under state law and any criminal offense under federal law under certain circumstances.

Renames the Homeland Security Critical Infrastructure Protection Council the Homeland Security Council and modifies the composition of the council.

Establishes the First Responder Advisory Council and the Private Sector Advisory Council as permanent special advisory councils.

Requires the Office of the Governor to allocate available federal and state grants and other funding related to homeland security to state and local agencies and defense base development authorities created under Chapter 379B, Local Government Code, that perform homeland security activities and measure the effectiveness of the homeland security grants and other funding.

Sets forth reporting requirements related to such grant funding.

Notice of a Landlord's Motor Vehicle Towing or Parking Rules—H.B. 1399

By Representative Dutton—Senate Sponsor: Senator Whitmire

Under current law, a vehicle may be towed from a residential premises without the owner's knowledge or permission, at the discretion of the towing company. Often the rules and policies are in a lease agreement and are not conspicuous. This bill:

Requires a landlord to provide a tenant a copy of any vehicle towing rules or policies adopted by the landlord and requires the tenant's signature.

Requires a landlord to provide a tenant with prior written notice of any changes in the vehicle towing rules and policies, and requires the landlord to deliver notice.

Provides that a landlord is liable for any damage to a tenant's vehicle under certain circumstances.

Contract-for-Deed and Rent-to-Own Arrangements—H.B. 1823

By Representative Dutton et al.—Senate Sponsor: Senator Lucio

Contract-for-deed and rent-to-own arrangements are home buying methods that leave the buyer vulnerable to abuses, and deny homebuyers many of the same basic benefits and rights that other homeowners have. Texans who have purchased their homes through contract-for-deed do not get the title to their home until the house is completely paid off, often over 10 to 15 years. The buyer is dependent upon the seller for insurance, information on taxes and fees, and for logging payments correctly and on time. The buyer builds no equity over time in the house, and can lose the invested funds if the buyer is evicted or for any other reason must move. The seller is not required to go through foreclosure to reclaim the house. This bill:

Gives contract-for-deed or lease-to-own home buyers and homeowners the same rights and benefits that homeowners have in any other type of home buying arrangement.

Allows contract participants to obtain a title to the property upon request while the seller still receives the same financial agreement and has the same rights as any other company that finances a home sale.

Strengthens those protections enacted in S.B. 198, 77th Legislature, Regular Session, 2001.

Authority of Municipalities to Enact a Requirement for Pricing—H.B. 2266

By Representatives Baxter and Callegari—Senate Sponsor: Senator Deuell

Some municipalities are starting to use a new "tool" in their effort to provide more low-income housing units. This involves forcing developers and home builders to provide a certain portion of their units at below market rates as a condition for receiving an array of development or building permits. This bill:

Prohibits municipalities from mandating housing prices for the private sector.

Allows municipalities to offer incentive programs to developers in exchange for providing affordable housing units to the community.

Tax Increment Financing for Affordable Housing—S.B. 833

By Senator Barrientos—House Sponsor: Representative Dukes

Texas' urban and suburban communities are increasingly incorporating passenger or commuter rail systems into their approach to addressing congestion and mobility problems. Tax increment financing (TIF) zones are one means of creating the new infrastructure. This bill:

Requires 25 percent of the tax increment created through the TIF zone associated with rail transportation projects to be spent on affordable housing within the TIF zone until at least 10 percent of the residential component of the zone, as shown in the TIF project plan, consists of affordable multi-family rental properties and single-family dwellings.

Certain Tenants' Right to Early Termination of Lease—S.B. 1186

By Senators Nelson and Fraser—House Sponsors: Representatives Guillen and Melissa Noriega

The federal Service Member Civil Relief Act grants service members the right to terminate lease agreements upon entering the military or being called to duty. The Act also allows for the service member to waive his or her rights. Some apartment associations include this waiver in form contracts, effectively erasing the benefits of the Act. This bill:

Allows service members to terminate lease agreements if and when they are transferred for military service.

Prohibits those rights from being waived, and requires the lease agreement to contain a provision describing a service member's right to termination.

Allows a victim of family violence to terminate a residential lease agreement under certain circumstances.

Line-of-Credit Advances Under a Reverse Mortgage—S.J.R. 7

By Senator Carona—House Sponsor: Representative Hochberg

Currently, the Texas Constitution permits advances under a reverse mortgage to be made only in a lump sum after settlement or in regular periodic, predetermined equal amounts over a term of years or the lifetimes of the homeowners. This bill:

Amends the provisions of the Texas Constitution to allow senior homeowners to draw advances under a reverse mortgage at unscheduled intervals if and when needed, and only in amounts needed, during the loan term.

Provides that the owner does not use a credit card, debit card, preprinted solicitation check, or similar device to obtain an advance.

Prohibits the charging of transaction fees for each advance after the time the extension of credit is established.

Prohibits the lender from unilaterally amending the extension of credit.

Notice to Employees of Coverage of Group Health Insurance—H.B. 765*By Representative Menendez—Senate Sponsor: Senator Van de Putte*

Under current state law, insurers offering a group accident and health insurance policy are required to provide the policyholder a certificate of insurance for delivery to each employee or insured member. However, many employees are not aware of their policy limitations and annual deductibles. This bill:

Requires an insurer issuing a group policy to provide to the policy holder:

- a certificate of insurance that includes summaries of the annual deductibles, annual and lifetime policy limits, and maximum out-of-pocket expenses under the policy; and
- a notice that informs the employee or member of the availability of and premiums for a rider or separate insurance policy that would provide additional coverage.

Requires employers offering standard health benefit plans to provide copies of this disclosure statement to each employee before the employee is hired, enrolls, or renews enrollment in the plan.

Requires employers to obtain a copy of the notice signed by the employee or prospective employee at the time the notice is provided.

Losses Covered by Personal Automobile Insurance—H.B. 1572*By Representative Taylor—Senate Sponsor: Senator Fraser*

Currently, a driver involved in an accident has a right to subrogation (the substitution of one party for another as creditor, with the transfer of rights and duties) against the at-fault driver and the insurer of the at-fault driver, if the driver or the insurer who was not at-fault paid for the repair of damages. This situation often arises when a dispute on fault exists or when the at-fault driver is uninsured.

The insurer of a driver who was not at-fault does not currently have the right of subrogation against the at-fault party to recover the money paid to the not-at-fault driver under personal injury protection (PIP) coverage. This bill:

Provides an insurer paying benefits under personal injury protection coverage the right of subrogation and a claim against an at-fault driver under certain conditions.

Authorizing High Deductible Health Plans—H.B. 1602*By Representative Eissler—Senate Sponsor: Senator Janek*

Federal law authorizes health savings accounts (HSAs) for the payment of qualified medical expenses. HSA are tax-favored savings accounts dedicated to health care expenses and are combined with high deductible health plans (HDHPs). The initial cost of care is paid from money accumulated in the individual's HSA. Once the annual deductible is met, the HDHP covers a portion of any remaining health care costs. Under federal law, participants in an HSA must also be covered by an HDHP.

Current Texas law impedes the offering of HSAs by requiring health plan coverage of certain items, such as childhood immunizations or hearing screening for newborns, which may not be subject to co-pays, coinsurance, or deductibles. This bill:

Defines HSA.

Provides that no Texas statute may be interpreted to prevent any entity from applying deductible or co-payment requirements to benefits, including state-mandated benefits, in order to qualify the health insurance policy as an HDHP.

Requires the commissioner of insurance to adopt rules to implement this Act.

Health Organization Certification—H.B. 1924

By Representative Chavez—Senate Sponsor: Senator Shapleigh

Nonprofit health corporations in Texas must be certified by the State Board of Medical Examiners to contract with or employ physicians. Texas non-profit corporations organized and operated as federally qualified health centers are eligible for such certification. This bill:

Clarifies the ability of a federally qualified health center administered by a public entity hospital district and located in a county that borders Mexico to employ physicians.

Adopting the Insurer Receivership Act—H.B. 2157

By Representative Smithee—Senate Sponsor: Senator Harris

The Texas Insurance Code provides for receivership proceedings to rehabilitate or liquidate an insurer. In a receivership, the insurer's assets are collected and distributed to its creditors under court supervision. The court appoints the commissioner of insurance (commissioner) as the receiver, and the receiver may appoint a special deputy receiver to administer the receivership.

The National Association of Insurance Commissioners (NAIC) has adopted a receivership model act. The model contains procedures that are designed to protect the interest of policyholders, claimants, and creditors. This bill:

Creates the Insurer Receivership Act.

Declares that the purpose of the Act to is protect the interests of insureds, claimants, creditors, and the public, including early detection of potentially hazardous conditions in an insurer, improving methods for conserving and rehabilitating insurers, and enhancing the efficiency and economy of liquidation.

Sets out to which insurers and entities the Act applies.

Sets out definitions used in the Act.

Sets out the jurisdiction and venue under the Act.

Provides that an action under the Act may only be commenced by the commissioner.

Sets out the procedures of notice, hearings, and appeals regarding actions filed by the receiver.

Authorizes the receivership court to issue orders and judgments as necessary to carry out the provisions of this Act.

Sets out the statutes of limitations for commencing actions under this Act.

Makes it an offense for current and former officers, employees, agents, and certain other persons to fail cooperate with the commissioner or receiver in any proceeding under this Act, or to obstruct or interfere with certain hearings or investigations, and provides for a penalty of up to \$10,000.

Limits the use of claims of improper or fraudulent conduct of officers or employees of an insurer or other persons as a defense in an proceeding under this Act.

Provides that in proceedings under the act, any defense or claim must have been recorded in the books or records of the insurer at the time of the events giving rise to the defense or claim.

Authorizes the receiver to assume or reject certain contracts or leases of an insurer.

Requires a competitive bidding process in selecting special deputies.

Sets out immunity and indemnification for the receiver and assistants.

Authorizes the receiver to pay expenses under contracts, leases, and other agreements entered into by an insurer prior to receivership.

Requires the receiver to make certain financial reports.

Vests the receiver with title in the books and records of an insurer upon the entry of an order of liquidation or rehabilitation.

Sets out the proceedings in delinquency proceedings and the seizure of an insurer's books, records, and other property.

Authorizes the commissioner, rehabilitator, or liquidator to share information with state and federal regulatory agencies and certain other persons.

Sets out the grounds under which the commissioner may file for conservation, rehabilitation, or liquidation of an insurer.

Sets out the procedures for the rehabilitation of an insurer under a rehabilitation order, including the powers and duties of the rehabilitator, the preparation of rehabilitation plans, and the termination of rehabilitation.

Sets out the procedures for the liquidation of an insurer under a liquidation order, including the powers of the liquidator, continuation of coverage of the insurer's insurance obligations, and the sale or dissolution of the insurer's corporate entity.

Authorizes the receiver to recover certain assets or property from insurers, affiliates of the insurers, and other persons, and sets out notice and procedures.

Authorizes the receiver to void certain fraudulent transfers and obligations entered into by an insurer.

Sets out the rights and liabilities of certain creditor and lien holders.

Sets out the procedures for the filing of claims by creditors and other persons with a liquidator.

Sets out the procedures for the payment of distributions, including the priority of claims.

Sets out the conditions for the discharge of an insurer subject to delinquency proceedings or the termination of liquidation proceedings.

Authorizes the commissioner to initiate proceedings against certain foreign insurers and sets out procedures regarding such actions.

Amends the current Texas Property and Casualty Insurance Guaranty Act, including provisions for obtaining custody and control of certain records and the amounts that may be recovered.

Insurance Fraud Reporting Requirements—H.B. 2388

By Representative Thompson—Senate Sponsor: Senator Fraser

Current law weakens the effectiveness of the Insurance Fraud Unit by making prompt reporting difficult. This bill:

Encourages prompt reporting, enhances the confidentiality of information and materials obtained during investigations and ensures that insurers have an appropriate level of immunity.

Provides that a report made to the insurance fraud unit, rather than one authorized governmental agency or the Texas Department of Insurance (TDI), constitutes notice to each other authorized governmental agency.

Lloyds Plans and Reciprocal Interinsurance Exchanges—H.B. 2614

By Representative Eiland—Senate Sponsor: Senator Lucio

Some believe that the law requires insurers to respond to reasonable Texas Department of Insurance (TDI) inquiries within 10 days of receipt. TDI's authority to obtain information has been challenged by a reciprocal exchange that refused to respond to TDI's inquiries due to its exemption under Section 941.003, Insurance Code. Lloyds companies have a similar exemption under Section 941.003. This bill:

Enhances consistent regulation of all insurance companies by making Lloyds companies and reciprocal exchanges expressly subject to information requests from TDI.

Study of Health Savings Accounts in Employees Retirement System—H.B. 2772

By Representative Farabee—Senate Sponsor: Senator Duncan

Health Savings Accounts (HSAs) were created in federal legislation to be used in conjunction with High Deductible Health Plans (HDHPs). HSAs are savings accounts specifically dedicated to health care expenses and are combined with HDHPs, which are less expensive than low-deductible health plans. The initial cost of care is paid with money from an individual's HSA. Once the annual deductible is met, the HDHP covers a portion of remaining health care costs. The Employees Retirement System of Texas (ERS) does not provide for HSAs and HDHPs. This bill:

Requires ERS to evaluate the long-term impact of implementing a health reimbursement account program (funded solely by the employer, it reimburses the employee for substantiated medical care expenses, including the purchase of health insurance) or an HSA and HDHP program as a part of the group benefits program, including the impact on future costs and benefits, access to quality health care, and provider availability

Requires ERS, not later than December 31, 2006, to submit a report of the results of the evaluation, including findings and recommendations, to the governor, lieutenant governor, and speaker of the house of representatives.

Use of Prior Denial of Health Insurance by Health Insurers—H.B. 2810

By Representative Hochberg—Senate Sponsor: Senator Ellis

Under current law, health insurance companies may deny an applicant coverage if that applicant has been previously denied coverage by another company. This bill:

Permits health benefit plan issuers to ask applicants for individual health benefit plans whether the applicants have previously been denied health benefit plan coverage for the purpose of determining whether to ask for other information.

Prohibits health benefit plans from considering whether the applicant has previously been denied health benefit plan coverage in underwriting coverage for the applicant.

Provides that a health benefit plan issuer who violates this Act engages in unfair discrimination.

Requirements for Amusement Rides—H.B. 2879

By Representative Bill Keffer—Senate Sponsor: Senator Armbrister

Current law requires an insurance policy covering an amusement ride to insure the owner or operator against liability for injury to persons in specified minimum limits. In practice, insurers do not write single limit policies and are reluctant to do so at the request of the Department of Insurance. This bill:

Assists with insurance availability in a limited market for owners and operators of amusement rides in Texas.

Defines "challenge courses" and exempts challenge courses from the current definition of amusement ride.

This bill is similar to S.B. 1282.

Insurance Coverage for Structures Over Water—H.B. 3048

By Representative Hopson—Senate Sponsor: Senator Staples

Current insurance laws are unclear as to whether property located over water may qualify as insurable property. As a result, many insurance carriers may not write wind and hail insurance coverage for properties over water. This bill:

Clarifies the Insurance Code to ensure that property over water is included as insurable property that may be covered by insurance policies against windstorm or hail damage.

Allows Texas Windstorm Insurance Association and the FAIR (Fair Access to Insurance Requirements) plan to write policies covering this type of structure.

Reinstatement of Personal Automobile Insurance Policy—H.B. 3300

By Representative Thompson—Senate Sponsor: Senator Averitt

Many Texans pay for their automobile insurance monthly. Under current law, if a policy is cancelled because of failure to pay on time, coverage can only be restored by the issuance of a new policy, including a new application and new signatures for rejection of personal injury protection and/or uninsured/underinsured motorist coverage, or reinstatement of the policy with no lapse in coverage, exposing the insurer to claims during the period when no coverage was in effect. This bill:

Allows insurers to reinstate the policy, with a gap in coverage, but without the necessity of securing a new application and any applicable rejections of coverage.

Criminal Offenses Involving Theft and Fraud—H.B. 3376

By Representative Taylor—Senate Sponsor: Senator Lucio

Proponents believe that revising and updating statutes relating to the criminal offenses of money laundering and insurance fraud will facilitate the investigation and prosecution of those offenses. This bill:

Amends the criminal offenses of money laundering and insurance fraud and related statutes to facilitate the investigation and prosecution of those offenses.

Standardizes the punishments for those offenses to make them consistent with the Penal Code.

Increases the statute of limitations for felony insurance fraud.

Clarifies the effect of the commission of those offenses upon certain license holders and applicants.

Regulation of Insurer Market Conduct—S.B. 14

By Senator Jackson et al.—House Sponsor: Representative Smithee

S.B. 14, 78th Legislature, Regular Session, 2003, created an entirely new insurance regulatory system in Texas.

Despite the overall success of last session's S.B. 14, two insurance companies have effectively used Texas's court system to their advantage. One company is still in the court system disputing the Texas Department of Insurance's (TDI) initial rate adjustment and their customers have yet to see the rate reductions they were promised last session. This bill:

Establishes an interest penalty for insurers who challenge an order by the insurance commissioner to refund auto or residential property insurance premiums deemed excessive or unfairly discriminatory, as follows:

- The amount of the interest is the prime rate plus six percent, not to exceed 18 percent.
- The interest penalty accrues as of the date the commissioner first gives notice to the insurer of the excessive or unfairly discriminatory rate.
- The interest penalty will not apply if an insurer's appeal is successful.

Establishes a framework for market conduct examinations.

Clarifies the definition of a residential property insurance claim, for underwriting and rating purposes, and the circumstances in which an insurer may impose a surcharge.

Program to Increase Public Awareness of Health Coverage Options—S.B. 261

By Senator Williams—House Sponsor: Representative Bill Keffer

According to the United States Census Bureau, Texas leads the nation in the number of persons lacking health insurance, with one in four Texans without such coverage. This bill:

Requires the Texas Department of Insurance (TDI) to develop a program to educate the public on the value of health coverage and available health coverage options.

Requires TDI to develop public service announcements and a website to educate consumers about the availability of health coverage in Texas.

Directs the commissioner of insurance to appoint a task force to make recommendations regarding this program.

Authorizes TDI to accept donations assist with funding the program.

Continuing Education Requirements for Insurance Agents—S.B. 265

By Senator Williams—House Sponsor: Representative Bill Keffer

Currently, the Texas Department of Insurance lacks the authority to grant continuing education credits for membership in professional associations. This bill:

Authorizes the commissioner of insurance to grant not more than four hours of continuing education credit to an agent who is an active member of a state or national insurance association.

Stipulates additional requirements to qualify for the continuing education credits.

Prosecution of Unauthorized Insurance—S.B. 781

By Senator Fraser—House Sponsor: Representative Taylor

One major area of concern for the Texas Department of Insurance regarding fraud involves the prosecution of unauthorized insurance. The Insurance Code (Unauthorized Insurance Prohibited), provides that “A person, including an insurer, may not directly or indirectly do an act that constitutes the business of insurance under this chapter except as authorized by statute.” The Insurance Fraud Unit has encountered difficulty persuading some district attorneys to pursue criminal prosecution in cases involving unauthorized insurance activity because those district attorneys believe this language requires them to prove that the conduct was knowing and intentional. This bill:

Amends the Insurance Code to clarify the standard of proof in the prosecution of unauthorized insurance cases.

Insurance and Regulatory Requirements for Amusement Rides—S.B. 1282

By Senator Armbrister—House Sponsor: Representative Bill Keffer

Current law requires an insurance policy covering an amusement ride to insure the owner or operator against liability for injury to persons in specified minimum limits. In practice, insurers do not write single limit policies and are reluctant to do so, even at the request of the Texas Department of Insurance. This bill:

Allows amusement ride owners and operators to continue to purchase a split-limit policy or a combined single-limit policy without diminishing the amount of bodily injury coverage required by current law.

Redefines "amusement ride" to include challenge courses.

Electric Utility Pension and Retiree Medical Reserve Accounts—S.B. 1447

By Senator Averitt—House Sponsor: Representative Eiland

When electric utility companies restructured, after January 1, 2002, they shifted the pension and retiree health care costs associated with service by non-transmission and distribution function employees to the deregulated entity. Career employees, who worked several years for the former regulated utility were unintentionally impacted by this restructuring. This bill:

Authorizes an electric utility to establish one or more reserve accounts for expenses for pension and other post-employment benefit expenses.

Requires that if a reserve account for pension and other post-employment benefits is established, the regulatory authority at a subsequent general rate proceeding shall review the amounts recorded to the reserve account to determine whether the amounts are reasonable expenses.

Motor Vehicle Financial Responsibility Verification Program—S.B. 1670

By Senator Staples—House Sponsor: Representative Callegari

Since 1981, Texas drivers have been required to maintain vehicle liability insurance. According to the Department of Public Safety, approximately 20 percent of Texas drivers do not have auto insurance. Forty-seven other states have mandatory liability insurance statutes; 27 of those states have implemented insurance verification programs. This bill:

Requires the Department of Insurance (TDI), Texas Department of Public Safety (DPS), Texas Department of Transportation (TxDOT), and the Department of Information Resources (DIR) to jointly establish a program for verification of whether owners of motor vehicles have established financial responsibility.

Requires the program established to be:

- the program most likely to reduce the number of uninsured motorists in this state; operate reliably; be cost-effective; sufficiently protect the privacy of motor vehicle owners; sufficiently safeguard the security and integrity of information provided by insurance companies; identify and employ a method of compliance that improves public convenience; and provide information that is accurate and current; and
- capable of being audited by an independent auditor.

Requires TDI, DPS, TxDOT, and DIR to jointly adopt rules to administer the program.

Requires TDI, DPS, TxDOT, and DIR to convene a working group to facilitate the implementation of the program, assist in the development of rules, and coordinate a testing phase and necessary changes identified in the testing phase and sets forth the composition of the working group.

Requires TDI, DPS, TxDOT, and DIR to select an agent, under a competitive bidding procedure, to develop, implement, operate, and maintain the financial responsibility verification program.

Requires TDI, DPS, TxDOT, and DIR to jointly enter into a contract with the selected agent for a term of not more than five years.

Requires each insurance company providing motor vehicle liability insurance policies in this state to provide necessary information for those policies to allow the agent to carry out this Act, subject to the agent's contract with the implementing agencies and rules adopted under this Act.

Provides that information obtained under this Act is confidential and that an agent may use the information only for a purpose authorized under this Act and may not use the information for a commercial purpose.

Provides that the agent is entitled only to information that is at that time available from the insurance company and that is determined by the implementing agencies to be necessary to carry out this Act.

Requires insurance companies that provide motor vehicle liability insurance policies to provide the necessary information for those policies to the selected agent.

Provides that a person commits a Class B misdemeanor if the person knowingly uses information obtained for administering the financial responsibility verification program for a purpose not authorized.

Authorizes the additional \$1 fee collected for registration or renewal of registration of a motor vehicle to be used by TDI, DPS, TxDOT, and DIR for administering the financial responsibility verification program, subject to appropriation.

Repeals requirements concerning the use of the additional fee prior to August 31, 2005.

Requires TDI to select an agent before December 31, 2005, and requires TDI, DPS, TxDOT, and DIR to fully implement the financial responsibility verification program before December 31, 2006.

Modifying Texas Judicial Retirement Systems—H.B. 1114

By Representative Nixon—Senate Sponsor: Senator Duncan

Texas is having difficulty attracting and retaining qualified judges and justices. The state's district and appellate judges participate in the Judicial Retirement System Plan I or Plan II, and make contributions to their retirement system. A judge who has served 20 years is not required to make additional contributions and is not eligible for additional retirement credit for remaining on the bench. Some experienced judges have stated they chose to resign after serving 20 years because there would be no increase in retirement service credit if they continued to serve. This bill:

Provides that an eligible member may establish service credit in the judicial retirement system for service in excess of 20 years if the member elects to make contributions as provided for under the Act.

Limits the amount of service credit that can be established and the period for which members may continue to make contributions under this Act.

Makes conforming changes in the formula for calculating a member's service retirement annuity.

Immunity of Judges for Acts Related to Community Supervision—H.B. 1326

By Representative Hope et al.—Senate Sponsor: Senator Whitmire

Recent decisions in state and federal courts have increased the concern of district and county court at law judges regarding liability for incidents or activities involving a community supervision and corrections department (CSCD). This bill:

Removes the district and county court at law judges from the management and operation of these departments. All operation and management decisions become the responsibility of the director of each CSCD.

Requires the district judge or district judges trying criminal cases in each judicial district and the statutory county court judges trying criminal cases in the county or counties served by the judicial district to establish a CSCD and approve the CSCD's budget and community justice plan, rather than employ district personnel as necessary to perform specific functions.

Requires a community justice council (council) to be established by the judges who are served by a CSCD, rather than the district judge or judges in each jurisdiction served by a CSCD, with certain exceptions.

Requires the council to provide continuing policy guidance and direction for conditions of community supervision.

Requires the CSCD director to perform or delegate the responsibility for overseeing the daily operations of the CSCD; preparing annually or biennially a budget for the CSCD; negotiating and entering into contracts on behalf of the CSCD; establishing policies and procedures for all functions of the CSCD; developing personnel policies and procedures, including disciplinary proceedings; and establishing procedures and practices through which the CSCD will address an employment-related grievance.

Requires the CSCD director to employ a sufficient number of officers and other employees to conduct pre-sentence investigations, supervise and rehabilitate defendants placed on community supervision, enforce the conditions of community supervision, and staff community corrections facilities.

Provides that a person employed under this subsection is an employee of the CSCD and not of the judges or judicial districts.

Provides that the responsibility of a judge for personnel decisions is limited to the appointment of a department director and a fiscal officer. Sets forth specific limitations in the responsibility of a judge for budgetary decisions.

Provides that a judge has judicial immunity in a suit arising from the performance of a duty described or the appointment of a CSCD director or a fiscal officer or an act or failure to act by a CSCD employee or by a CSCD director or fiscal officer.

Authorizes an officer to carry a weapon while engaged in the actual discharge of the officer's duties only if the officer possesses a certificate of firearms proficiency issued by the Commission on Law Enforcement Officer Standards and Education and the director of the CSCD agrees to the authorization.

Requires the attorney general to defend a statutory county court judge in an action in state or federal court if the cause of action is the result of the judge performing certain duties related to a CSCD and the judge requests the attorney general's assistance in the defense.

Authorizes a CSCD to expend district funds in order to provide expended facilities, equipment, and utilities if the county or counties certify to the CSCD director certain information.

Prohibits a council from submitting a plan unless the plan is first approved by the judges who established the CSCD served by the council.

Requires the Community Justice Assistance Division (CJAD) of the Texas Department of Criminal Justice, if CJAD determines that a CSCD complies with CJAD standards and if the council has submitted a community justice plan and met certain other requirements.

Compensation of Certain Judges of Administrative Judicial Regions—H.B. 1686

By Representative Oliveira—Senate Sponsor: Senator Wentworth

Texas is having difficulty attracting and retaining qualified judges and justices. One contributing factor may be the judicial compensation.

Texas is divided into nine administrative judicial regions. Each region has a presiding judge who is appointed by the governor. Currently, a presiding judge may earn a maximum of \$23,000 per year. Certain presiding judges may earn a higher salary, depending on the number of judges and courts in the region. This bill:

Increases the salary of a presiding judge to a maximum of \$33,000 per year. A presiding judge who meets certain requirements receives a salary increase of \$10,000 per year.

Applicability of Weapon Laws to Judges and Prosecutors—H.B. 2110

By Representative Berman et al.—Senate Sponsors: Senators Eltife and Wentworth

The Penal Code currently contains a "nonapplicability" section, the effect of which allows certain persons, including judges and peace officers, to carry a concealed handgun into prohibited places. This bill:

Establishes an exception to the application of the offense of criminal trespass to certain law enforcement officers.

Exempts a district attorney, a criminal district attorney, or a judge or justice of a federal court who is licensed to carry a concealed handgun from applicability of Sections 46.02 (Unlawful Carrying Weapons) and 46.03 (Places Weapons Prohibited) of the Penal Code.

Modifies the requirements that state or local law enforcement agencies place on honorably retired peace officers to demonstrate weapons proficiency.

Redefines "recognized state" for purposes of authorizing the carrying of a concealed weapon.

Changing State Commission on Judicial Conduct Membership—H.J.R. 87

By Representative Farabee—Senate Sponsor: Senator Lindsay

The State Commission on Judicial Conduct (SCJC) is responsible for the investigation and prosecution of judicial misconduct. The present 11 members consist of five judges representing all levels of the judiciary, four public members, and two attorneys. This bill:

Proposes a constitutional amendment to add a judge of a constitutional county court and an additional public member to the SCJC.

Removes the geographical restriction that prohibits the membership of certain committee members from the same supreme judicial district.

Provides that a quorum consists of at least seven members.

Weighted Caseload Study of District Courts—S.B. 729

By Senator Wentworth—House Sponsor: Representative Puente

A weighted caseload study translates a court's caseload into a figure indicating the number of hours it should reasonably take the court to dispose of cases on the court's docket. Such a study would provide more accurate data on the caseload of the district courts and allow the legislature to make informed decisions regarding the structure of the Texas trial court system. This bill:

Requires the Office of Court Administration (OCA) to contract with an independent, non-profit organization that specializes in providing technical assistance and consulting services to courts to perform a weighted caseload study on the Texas district courts.

Requires OCA to file a report on the results of the study by October 1, 2006, with the governor, the lieutenant governor, the speaker of the house of representatives, and the chairs of the standing committees of the senate and house of representatives with jurisdiction over the judicial system.

Release by Comptroller of Unclaimed Property for Child Support Lien—H.B. 81

by Representative Riddle—Senate Sponsor: Senator Janek

Currently, if someone who owes child support has unclaimed property with the Office of the Comptroller of Public Accounts (comptroller), this property is immune from seizure to pay child support arrearages. This bill:

Authorizes the comptroller to approve a claim for child support arrearages against unclaimed property belonging to a person against whom a child-support lien has been levied.

Provides that a claim under this Act may be submitted by the lienholder or the attorney general on behalf of the lienholder.

Prohibiting Actions Alleging Weight Gain From Food Products—H.B. 107

By Representative Van Arsdale et al.—Senate Sponsor: Senator Carona

Throughout the United States, there have been several civil actions against food manufacturers or sellers for damages resulting from weight gain or obesity due to long-term consumption of a food product. Fourteen states have enacted legislation prohibiting such actions. This bill:

Contains definitions, including "food," "manufacturer," and "seller."

Provides that a manufacturer, seller, trade association, livestock producer, or agricultural producer is not liable for any claim alleging weight gain or obesity, a health condition associated with weight gain or obesity, or any other condition allegedly caused by long-term consumption of a food.

Permits certain actions, including if a manufacturer or seller of a food knowingly and willfully violates a federal or state statute applicable to the manufacturing, marketing, distribution, advertisement, labeling, or sale of the food; and the violation is a proximate cause of injury related to an individual's weight gain or obesity.

Sets out what a pleading alleging such a violation must state.

Requires a court to immediately dismiss any pending action that was filed on or after June 1, 2005, and would not be permitted under this Act.

Access to or Possession of a Child by a Grandparent—H.B. 261

By Representative Goodman—Senate Sponsor: Senator Wentworth

Current Texas law requires a court to order reasonable access to a grandchild by a grandparent, if certain circumstances exist. In 2000, the United States Supreme Court ruled that a Washington statute used to grant grandparents access to their grandchildren was unconstitutional. Subsequently, Texas Attorney General Greg Abbott ruled that in order for the Texas statute to be applied constitutionally, a grandparent has the burden of proving by preponderance of the evidence that either the parent is not fit or that denial of access by the grandparent will significantly impair the child's physical or mental well-being. This bill:

Authorizes a biological or adoptive grandparent to request possession of, as well as to gain access to, a grandchild.

Requires a court to order reasonable possession of or access to a grandchild by a grandparent if the grandparent overcomes the presumption that a parent acts in the best interest of the parent's child by proving by a preponderance

of the evidence that denial of possession of or access to the child would significantly impair the child's physical health or emotional well-being.

Expands current law to authorize a court to consider appointment of a sibling of a deceased parent, as well as the grandparents, as the managing conservator if both parents of a child are deceased.

Informing Child Support Obligors of Tax Assistance Programs—H.B. 401

By Representative Villarreal—Senate Sponsor: Senator Averitt

The attorney general has the power to withhold the federal income tax refunds of Texans who owe past-due child support. Unfortunately, many child support obligors do not take advantage of federal tax credits, such as the Earned Income Tax Credit (EITC), when filing their income tax, diminishing the potential amount of the tax refund available to pay child support. This bill:

Requires a Title IV-D agency (a state agency designated under state law to provide services under Part D of Title IV of the federal Social Security Act) to cooperate with volunteer income tax assistance programs in informing obligors of the availability of the programs and to publicize such services.

Requires the Health and Human Services Commission to ensure that educational materials relating to the EITC are provided to each person receiving assistance or benefits under various health and human services programs.

Terminating Parental Rights of Parent Who Murders Other Parent—H.B. 657

By Representatives Bonner and Martinez-Fischer—Senate Sponsor: Senator Averitt

Donna Hoedt was murdered by her husband. Even after the husband was convicted of her murder and incarcerated, he had to be consulted on all decisions regarding their children, and it took years to terminate his parental rights. This bill:

Provides that this Act may be called the Donna Hoedt Act.

Authorizes a court to terminate the parental rights of a parent who has been convicted of the murder of the other parent of the child under Texas law, or federal or state law that is substantially similar to Texas law.

Requires that such termination be in the best interest of the child.

Procedures Relating to Forum Non Conveniens in Civil Actions—H.B. 755

By Representative Gattis—Senate Sponsor: Senator Duncan

Section 71.051, Civil Practice and Remedies Code, addresses the legal doctrine of forum non conveniens, which allows courts to dismiss cases otherwise within their jurisdiction in order to allow the litigation to proceed in another forum in the interest of justice and for the convenience of the parties to a lawsuit.

Under Section 71.051(f), a court may not stay or dismiss a claim or action if a party opposing the motion makes a prima facie showing that an act or omission that was a proximate or producing cause of the injury or death occurred in Texas. The party opposing the motion needs only to produce "credible evidence." There is concern that this provision limits the discretion of the courts and can override the purposes of the forum non conveniens doctrine. This bill:

Requires a court to consider the extent to which an injury or death resulted from acts or omissions that occurred in this state when determining whether to grant a motion to stay or dismiss under the doctrine of forum non conveniens.

Repeals the provision barring a court from staying or dismissing an action under Section 71.051(f).

Requires a court granting a motion to stay or dismiss an action under the doctrine of forum non conveniens to set forth specific findings of fact and conclusions of law

Discovery in a Criminal Case—H.B. 969

By Representative Keel—Senate Sponsor: Senator Hinojosa

Currently, Article 39.14(a), Code of Criminal Procedure, provides for discovery by the defendant in a criminal case of the evidence maintained by the prosecution. However, the discretionary language in the current statute is unclear. This bill:

Amends Article 39.14(a), Code of Criminal Procedure, to require courts to permit the inspection of documents and other specified items in the possession of the state in a criminal case upon motion of the defendant.

Repeals Article 32A.02, Code of Criminal Procedure, which establishes time limitations related to dismissing prosecutions.

Mental State Required For Certain Misdemeanor Offenses—H.B. 970

By Representative Keel et al.—Senate Sponsor: Senator Hinojosa

“Strict liability” offenses may be enacted without requiring criminal intent. Such offenses are limited to “mala prohibita” crimes, meaning the offenses are criminal only because the enacting body defines such acts as criminal, as opposed to crimes that are “mala in se,” meaning the acts themselves are inherently wrong.

Mala prohibita offenses are supposed to be limited to minor, fine-only offenses. Section 12.23, Penal Code, limits fine-only offenses to a maximum fine of \$500. Some cities have enacted strict liability crimes outside the Penal Code and have attached fines exceeding the maximum fine allowed by law. This bill:

Prohibits an offense defined by municipal ordinance or by order of a county commissioners court from dispensing with the requirement of a culpable mental state (actions that are intentional, knowing, reckless, or criminally negligent) if the offense is punishable by a fine exceeding the amount authorized by Section 12.23 (Class C Misdemeanor).

Depositions of a Witness in a Criminal Action—H.B. 975

By Representative Madden—Senate Sponsor: Senator Harris

Under current law, prosecutors cannot preserve testimony for trial by taking a deposition. Elderly or infirm crime victims sometimes die before a trial begins or are physically unable to testify in court. This bill:

Authorizes the state or the defendant, when an examination takes place in a criminal action before a magistrate, to have the deposition of any witness taken by any officer authorized by this Act.

Prohibits the state or the defendant from using the deposition for any purpose unless the testifying party first acknowledges that the entire evidence or statement can be used for or against the defendant.

Sets forth the procedures for applying for, taking, and preserving such depositions.

Collection and Analysis of DNA Evidence—H.B. 1068

By Representative Driver—Senate Sponsor: Senator Hinojosa

Under current law, the Department of Public Safety (DPS) has the ability to audit and inspect only those crime labs that are authorized to use the national DNA database operated by the Federal Bureau of Investigation. This limits the state's oversight of all laboratories, both private and governmental. Since the establishment of a state convicted offender DNA index system (CODIS) in Texas in January of 1996, there have been a number of bills passed that require collection of DNA samples, but the requirements in these bills are not always consistent. This bill:

Amends the Code of Criminal Procedure as it relates to the collection and analysis of evidence and testimony based on forensic analysis, crime laboratory accreditation, DNA testing, and the creation and maintenance of DNA records, and provides penalties.

Creates the Texas Forensic Science Commission (TFSC) to develop and implement a professional misconduct reporting system for all laboratories, facilities, or entities that conduct forensic analyses and requires TFSC to investigate reports of professional negligence and misconduct in a timely manner.

Authorizes TFSC to contract with any person it determines to be qualified to assume the duties of developing and implementing a reporting system and investigating professional negligence and misconduct.

Authorizes TFSC to require an entity to pay any costs arising from compliance with the requirement that an investigation of professional negligence or misconduct include preparation of a written report identifying the alleged negligence or misconduct, whether any negligence or misconduct occurred, and any corrective action that resulted.

Prohibits TFSC members from receiving compensation but authorizes the members to receive reimbursement for travel expenses.

Requires the Texas Legislative Council, the Legislative Budget Board, and the University of Texas at Austin to assist TFSC in performing its duties.

Amends the Code of Criminal Procedure by requiring any physical evidence in a criminal action to be subjected to a forensic analysis conducted by an entity that is accredited by the director of DPS (director).

Provides that the evidence subjected to a forensic analysis and expert testimony relating to the evidence would not be inadmissible in a criminal case based solely on the accreditation of the crime laboratory conducting the analysis if the laboratory would have been eligible except for making proper application or if the laboratory obtains accreditation from the director before the time of testimony about the examination or test.

Authorizes a DNA database to also be used in the defense of a criminal case, in forensic validation studies, or to retest to validate or update the original analysis.

Authorizes the director to collect a reasonable fee for analysis of a DNA sample submitted voluntarily or for providing population statistics data or other appropriate research data.

Requires the collected fees to be deposited in the state treasury to the credit of the State Highway Fund and used only to defray the cost of administering accreditations.

Restricts the director from accepting a DNA record or DNA sample collected from an individual who at the time of collection is alive, unless the director reasonably believes the sample was submitted voluntarily and the blood sample was collected in a medically approved manner.

Requires the director to provide the collection kits, labels, report forms, instructions, and training for collection of DNA samples at no cost to the person.

Requires individuals ordered by a magistrate or court, or confined in a penal institution operated by the Texas Department of Criminal Justice (TDCJ) or juveniles adjudicated for conduct constituting a felony, confined in a facility operated by the Texas Youth Commission (TYC), to provide DNA samples.

Requires TDCJ and TYC to collect a DNA sample during the initial examination or at any other reasonable time.

Provides certain exceptions to the allowable expunctions of a DNA record and authorizes the director by rule to permit the administrative removal of erroneous records, samples or other information.

Repeals Sections 411.0206, 411.1472, 411.1481, 411.1531, and 411.1532, Government Code, which relate to the regulation of DNA testing, laboratories, and records.

Repeals Section 481.160(f), Health and Safety Code, which allows law enforcement agencies to be reimbursed for costs associated with an offense.

Issuance Of Administrative Writ Of Withholding for Child Support—H.B. 1182

By Representative Dutton—Senate Sponsor: Senator Wentworth

A writ of withholding is a document issued to an employer indicating that a portion of an employee's earnings must be withheld by court order for payment of child support. Currently, the Office of Attorney General is the only governmental entity authorized to issue administrative writs of withholding. This bill:

Authorizes a domestic relations office to issue and deliver administrative writs of withholding in proceedings in which the domestic relations office is providing child support enforcement services. A domestic relations office is a county office that serves families, county departments, and courts to ensure effective enforcement of child support orders.

Permits administering entities to authorize domestic relations offices to assess and collect fees as reimbursement for costs incurred in filing administrative writs of withholding. An administering entity is a commissioners court, juvenile board, or other entity responsible for administering a domestic relations office.

Civil Consequences of Certain Alcohol-Related Offenses—H.B. 1357

By Representative Flores—Senate Sponsor: Senator Seliger

Under current law, an adult convicted of giving alcohol to or buying alcohol for a minor is guilty of a Class A misdemeanor, punishable only by monetary fines or jail time. The House Licensing & Administrative Procedures Committee, charged during the 78th Interim to study ways to reduce the incidence of underage drinking in Texas, found that recent studies by the Century Council reveal that 65 percent of underage youth who drink obtain their alcohol from an adult or someone they know who is 21 or over, rather than from commercial businesses. This bill:

Amends the Transportation Code, to require that a person's driver's license be automatically suspended upon a final conviction for purchasing alcohol for, or furnishing alcohol to, minors and to prohibit the Department of Public Safety from issuing a driver's license to a person convicted of purchasing alcohol for or furnishing alcohol to a minor.

Creates, upon final conviction, a 180-day driver's license suspension and 180-day driver's license denial period. The denial period would be 180 days after the person applies for reinstatement or issuance of a driver's license. Persons with a license suspended or previously denied under this Act of the bill would have a one-year driver's license suspension and denial period. The denial period would be one-year after the person applies for reinstatement or issuance of a driver's license.

The Defense of Indigent Persons—H.B. 1701

By Representatives Keel and Hodge—Senate Sponsor: Senator Williams

Under current law, county officials are required to prepare, in the manner prescribed by the Office of Court Administration (OCA), an annual copy of all rules and forms that describe the procedures used to provide indigent defendants with counsel and submit this information to the OCA. This bill:

Amends the Government Code and the Code of Criminal Procedure relating to the defense of indigents accused of a criminal offense.

Transfers certain duties from the OCA to the Task Force on Indigent Defense (Task Force).

Requires counties to report indigent defense information, rules, and revisions on a biennial, rather than an annual basis, in the form and manner prescribed by the Task Force.

Requires the information to be prepared and provided to the OCA.

Clarifies that juvenile boards must also submit certain information to the Task Force and/or verify the rules and forms on file with the Task Force.

Amends provisions relating to membership on the Task Force and allows a retired district judge to serve on the task force.

Defines a governmental entity for the purposes of creating a public defender office.

Requires the rules and standards relating to the appointment of counsel in capital cases to require that an attorney appointed as lead counsel not have been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any capital case.

Eligibility for Jury-recommended Community Supervision—H.B. 1759

By Representative Keel—Senate Sponsor: Senator Whitmire

Under current law, a jury that imposes confinement as punishment for an offense may recommend to the judge that the judge suspend the imposition of the sentence and place the defendant on community supervision. However, under current law, the jury is not permitted to recommend community supervision for any defendant who is sentenced to serve a term of confinement for a state jail felony. This bill:

Prohibits a defendant from being eligible for community supervision under Section 4(d), Article 42.12, Code of Criminal Procedure, if the defendant is convicted of a state jail felony for which suspension of the imposition of the sentence occurs automatically under Section 15(a), Penal Code.

Deletes the existing exception to this section authorizing a judge to impose on the defendant a condition that the defendant submit to a period of confinement in a county jail if the term does not exceed 90 days.

Child Support Payment to Individual with Primary Possession—H.B. 2231

By Representative Reyna—Senate Sponsors: Senators Deuell and Zaffirini

The United States Census Bureau estimates that there are more than four million children in the United States living in homes in which a grandparent is the primary caregiver. In many cases, the parents of these children are receiving child support payments, but may not be forwarding the support payments to the grandparents or other caretakers of the children. This bill:

Requires a court to modify an order providing for the support of the child to allow the person who has physical possession of the child for at least six months to receive the child support to financially care for the child's needs.

Rights of Person in Mental Health Court Program—H.B. 2518

By Representative Coleman et al.—Senate Sponsor: Senator Duncan

The 78th Legislature, Regular Session, 2003, enacted legislation encouraging the development of mental health courts to process criminal cases involving individuals with mental illness and attempting to divert those individuals away from the criminal justice system and into effective treatment. This bill:

Requires a mental health court program to:

- Permit persons to choose whether to proceed through the mental health court program or the regular criminal justice system;
- Allow participants to withdraw from the mental health court program at any time before a trial;
- Provide participants with court-ordered individualized treatment plans; and
- Ensure that the jurisdiction of the mental health court extends at least six months, but cannot exceed the probationary period for the offense charged.

Civil Liability for Providing Alcohol to a Minor—H.B. 2868

By Representative Frost et al.—Senate Sponsor: Hinojosa

Under current law, an adult who provides alcoholic beverage to a minor cannot be held responsible for damages resulting from the minor's intoxication. This bill:

Provides that an adult 21 years of age or older is liable for damages proximately caused by the intoxication of a minor under the age of 18 if adult is not the minor's parent, guardian, or spouse, and the adult knowingly:

- served or provided alcoholic beverages to the minor; or

- allowed the minor to be served or provided alcoholic beverages on premises owned or leased by the adult.

Expunction or Nondisclosure of Criminal Records and Files—H.B. 3093

By Representative Pena—Senate Sponsor: Senator West

Occasionally, through human error, incorrect information is entered on a driver record resulting in suspension action against an individual that requires the individual to pursue subsequent court action to correct the error. This bill:

Amends the Code of Criminal Procedure to allow the director of the Department of Public Safety (DPS) or the director's authorized representative to file an ex parte petition in a district court on behalf of a person entitled to expunction of criminal records and files.

Sets forth the information that must be included in the petition filed by the director of DPS or the director's authorized representative.

Authorizes persons placed on deferred adjudication community supervision that subsequently receive a discharge and dismissal to file an ex parte petition with the district court for an order of nondisclosure, regardless of whether the person has been previously convicted or placed on deferred adjudication community supervision for an offense.

Modifies the eligibility and payment dates and requires DPS to send a copy of the order by mail or electronic means to all private entities that purchase criminal history record information from DPS, in addition to law enforcement agencies and federal depositories.

Requires DPS to include in a report submitted to the legislature, the number of persons who are the subject of an order of nondisclosure and who became the subject of criminal charges for an offense after the order was issued.

Amends provisions relating to ex parte petitions for the expunction of criminal records and files.

Amends provisions in the Government Code and the Code of Criminal Procedure relating to a person's eligibility for an order of nondisclosure with respect to certain criminal history records and to certain law enforcement duties that result from the issuance of an order.

Authorizes a criminal justice agency to disclose criminal history record information that is the subject of an order of nondisclosure to certain noncriminal justice agencies or entities only for criminal justice or regulatory licensing purposes.

Provides that a person whose criminal history has been sealed would not be required to state in any proceeding they had been the subject of any criminal proceeding related to the order issued.

Prohibits DPS from releasing criminal history record information to entities that have purchased the information and violated certain provisions of the Government Code five or more times, until the first anniversary of the date of the most recent violation.

Procedures Applicable to Waivers of the Right to Counsel—H.B. 3152

By Representatives Escobar and Hodge—Senate Sponsor: Senator Ellis

The right to counsel is protected by the Texas and United States constitutions. Current law provides that a person accused of a crime is entitled to be represented by an attorney and that a defendant may waive the right to counsel, but that waiver is valid only if it is knowingly and voluntarily made. Certain procedures must be followed to obtain a valid waiver of the right to counsel. This bill:

Prohibits an attorney for the state in a criminal case from initiating or encouraging an attempt to obtain from an unrepresented defendant a waiver of the right to counsel, or communicating with a defendant who has requested the appointment of counsel unless the court or the court's designee to appoint counsel for indigent defendants in the county has denied the request.

Prohibits the court from directing or encouraging a defendant to communicate with the attorney for the state until the court advises the defendant of the right to counsel and the procedure for obtaining counsel and the defendant has been given a reasonable opportunity to obtain counsel.

Prohibits the court, if the defendant has requested appointed counsel, from directing or encouraging the defendant to communicate with the attorney for the state unless the court or the court's designee to appoint counsel for indigent defendants in the county has denied the request.

Authorizes a defendant to voluntarily and intelligently waive in writing the right to counsel.

Provides that a waiver obtained in violation of the provisions of this Act is presumed invalid.

Requires the court, if a defendant wishes to waive the right to counsel, whether for purposes of entering a guilty plea or proceeding to trial, to advise the defendant of the dangers and disadvantages of self-representation.

Requires the court, if the court determines that the waiver is voluntarily and intelligently made, to provide the defendant with a statement substantially in a form specified, which, if signed by the defendant, is required to be filed with and become part of the record of the proceedings.

Declaration of Mistrial in Punishment Phase of Criminal Proceeding—H.B. 3265

By Representatives Straus and Pena—Senate Sponsor: Senator Wentworth

In a criminal case, the verdict is not complete until the conclusion of both the guilt/innocence phase and the punishment phase of the trial. Currently, if after a defendant has been found guilty, a judge grants a motion for a mistrial during the punishment phase, the entire case must be retried. This bill:

Provides that in the event a jury cannot agree on the issue of punishment, a partial mistrial will be declared and a new jury will be impaneled as soon as practicable for the punishment phase of the trial.

Civil Claims Involving Exposure to Asbestos and Silica—S.B. 15

By Senators Janek and Nelson—House Sponsors: Representatives Nixon and Rose

Asbestos was once widely used in the United States for construction and insulation. Breathing in microscopic amounts of asbestos fibers can result in cancer and debilitating illness, but it may take decades before the damage becomes evident. In the 1970s, injured and dying workers began to file claims for damages arising from asbestos

exposure. There are now claims for billions of dollars filed by hundreds of thousands of persons who were exposed to asbestos. Silica sand is widely used in a number of industries, and exposure to silica can also result in cancer and debilitating illness. The number of silica-related occupational injury claims are rising.

Persons who have been exposed to asbestos or silica can be identified by lung x-rays, but it may be years before they develop health problems related to their exposure. One issue is that persons who have been identified as having been exposed to these substances, but who have not yet developed health problems, may find it necessary to file a claim to avoid losing their right to sue pursuant to the statute of limitations. This bill:

- Sets out legislative findings regarding asbestos and silica exposure.
- Sets out definitions.
- Adopts medically accepted standards for identifying individuals who have been exposed to asbestos or silica and have developed functional impairments linked to such exposure. This includes pulmonary function testing that meets certain standards and criteria.
- Requires a claimant alleging an asbestos- or silica-related injury to serve each defendant with a report meeting certain medical criteria that establishes that the person has developed exposure-related health problems. In an action filed on or after the effective date of this Act, the report must be filed within 30 days after the defendant enters an appearance in the action. A report is not required to be served for actions pending on the effective date of this Act, unless a mistrial, new trial, or retrial is subsequently ordered, and then the report must be filed on or before the earlier of the 60th day before the trial commences or the 180th day after this Act becomes law.
- Provides that if a claimant does not timely file the report or the report does not comply with the requirements set out in the act, the claim is dismissed without prejudice (meaning that the claimant may file the claim at a later date). A claimant may also voluntarily dismiss the action without prejudice.
- Sets out detailed provisions regarding applicability of multidistrict litigation (MDL) rules and proceedings. (H.B. 4, a tort reform bill enacted in 2003, created a multidistrict litigation panel with ability to consolidate any cases with common issues of fact in a single district court for pretrial proceedings, and such a court has been created for asbestos litigation cases.)
- Provides that an action for personal injury or death resulting from an asbestos or silica-related injury accrues on the earlier of the date of the person's death or the date the claimant serves a defendant with a report.
- Provides for an interlocutory appeal of the granting or denial of a motion to dismiss an asbestos- or silica-related claim.
- Requires trial courts to give preference to hearings and trials regarding actions in which the claimant has been diagnosed with malignant asbestos- or silica-related cancer or acute silicosis.
- Bars insurance companies from denying health or life insurance or annuity coverage to a person based on exposure to asbestos or silica.
- Provides that this Act will apply to any action commenced on or after the effective date of this Act or to any action in which the trial, new trial or retrial, appeal, or otherwise has not commenced on or before such date.
- Provides for the direct appeal to the Texas Supreme Court of any order regarding the constitutionality of this Act.

Representation in Capital Cases and Life Without Parole—S.B. 60

By Senator Lucio et al.—House Sponsor: Representative Goolsby et al.

Under current Texas law, a capital murder conviction is punishable by either death or a life sentence under which the person can become eligible for parole in 40 years. This bill:

Amends the Penal Code by adding life without parole as a sentencing option for offenders convicted of capital murder and eliminating the option of a life sentence under which the person can become eligible for parole in 40 years.

Amends the Penal Code by increasing the minimum age at which a person can be punished by death from 17 years of age to 18 years of age.

Requires the court of criminal appeals to reform a sentence of death to a sentence of confinement in the institutional division of the Texas Department of Criminal Justice for life if the court finds that there is legally insufficient evidence to support an affirmative answer to an issue submitted to the jury under certain statutory provisions.

Requires the court of criminal appeals to reform a sentence of death to a sentence of confinement in the institutional division of the Texas Department of Criminal Justice for life if the court finds reversible error that affects the punishment stage of the trial other than a finding of insufficient evidence and within 30 days after the date on which the opinion is handed down, the date the court disposes of a timely request for rehearing, or the date that the United States Supreme Court disposes of a timely filed petition for writ of certiorari, whichever date is later, the prosecuting attorney files a motion requesting that the sentence be reformed to confinement for life.

Requires the court of criminal appeals, if the court finds reversible error that affects the punishment stage of the trial only and the prosecuting attorney does not file a motion for reformation of sentence in the period specified, to grant the defendant a new sentencing trial.

Repeals Section 508.145(b), Government Code, pertaining to parole eligibility after 40 years.

Requires the court of criminal appeals to adopt rules for the appointment of attorneys as counsel in capital cases and allows the convicting court to appoint an attorney as counsel only if the appointment is approved by the court of criminal appeals in any manner provided by those rules.

Provides that the rules must require that an attorney appointed as lead counsel under this section not have been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any capital case.

Requires the local selection committee created in each administrative judicial region committee (committee) to adopt standards for the qualification of attorneys to be appointed to represent indigent defendants in capital cases in which the death penalty is sought.

Requires that the standards require a trial attorney appointed as lead counsel to a death penalty case or an attorney appointed as lead counsel in the direct appeal of a death penalty case to:

- be a member of the State Bar of Texas;
- exhibit proficiency and commitment to providing quality representation to defendants in death penalty cases;
- have not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any capital case;

- have at least five years of experience in criminal litigation;
- have tried to a verdict as lead defense counsel a significant number of felony cases, including homicide trials and other trials for offenses punishable as second or first degree felonies or capital felonies;
- have trial experience in the use of and challenges to mental health or forensic expert witnesses and investigating and presenting mitigating evidence at the penalty phase of a death penalty trial; and
- have participated in continuing legal education courses or other training relating to criminal defense in death penalty cases.

Requires the committee to prominently post the standards in each district clerk's office in the region with a list of attorneys qualified for appointment.

Provides that not later than the second anniversary of the date an attorney is placed on the list of attorneys qualified for appointment in death penalty cases and each year following the second anniversary, the attorney must present proof to the committee that the attorney has successfully completed the minimum continuing legal education requirements of the State Bar of Texas, including a course or other form of training relating to the defense of death penalty cases.

Requires the committee to remove the attorney's name from the list of qualified attorneys if the attorney fails to provide the committee with proof of completion of the continuing legal education requirements.

Eligibility for Release from Jail After a Delay In Prosecution—S.B. 599

By Senator Staples—House Sponsors: Representatives Gattis and Hopson

Current law requires a criminal defendant to be released on a reduced bond or a personal bond if the state is not ready for trial within 90 days of arrest in a felony case. A defendant who violates a condition of the bond must be offered an additional bond because current law does not allow the state to hold the defendant without bond until the time of the trial. This bill:

Authorizes a judge to deny a defendant a bond if the defendant has violated a condition of the original bond.

Revising Laws Regarding the Insanity Defense—S.B. 837

By Senator Wentworth—House Sponsor: Representative Keel

Article 46.03 (Insanity Defense), Code of Criminal Procedure, sets out the procedures for the examination, trial, and disposition of individuals accused of a crime who offer the defense of not guilty by reason of insanity (NGRI). The Senate Jurisprudence Committee, in its Interim Report to the 79th Legislature, recommended legislation to revise the laws regarding NGRI. This bill:

Adds Chapter 46C to the Code of Criminal Procedure and defines terms used in this new chapter.

Provides that a person acquitted by NGRI may not be committed for a cumulative period, including both institutionalization and out-patient supervision, that exceeds the maximum term provided by law for the offense for which the acquitted person was tried. Upon expiration of the maximum term, the person may be institutionalized or ordered to received out-patient treatment only under civil commitment proceedings.

Sets out the procedures for defendants seeking to raise the insanity defense.

Provides for the appointment of experts to examine the defendant with regard to the insanity defense and sets out the qualifications for such experts.

Sets out the procedures for determination of the defendant's sanity by a jury or judge.

Sets out two distinct dispositions for a defendant found NGRI:

- Provides that if the defendant had engaged in nonviolent conduct, the defendant is transferred to the appropriate court for civil commitment proceedings or committed to a residential care facility.
- Provides that if the defendant engaged in dangerous conduct, there are detailed provisions regarding defendant's commitment by the trial court, examination and review of the defendant, continued in-patient and out-patient supervision, post-release monitoring, and discharge. Under these provisions, if a court orders outpatient or community based treatment, the defendant must be monitored regarding compliance with the treatment, and a court is authorized to modify or revoke such treatment if it determines that the person is failing to comply with the treatment regimen or has otherwise become likely to cause harm to another.
- Defines dangerous conduct as conduct causing serious bodily injury to another person, placing another person in imminent danger of such injury, or a threat of serious bodily injury to another through the use of a deadly weapon.

Provides for the collection of information and records regarding persons found NGRI by the Texas Health and Human Services Commission.

Reducing Recovery in Civil Action by Settlement Amount—S.B. 890

By Senator Williams—House Sponsor: Representative Nixon

Under Texas law, an injured party is entitled to recover only once for an injury. This rule was codified in 1987 in Chapter 33, Civil Practice and Remedies Code. Under Chapter 33, if the claimant settled with one or more persons, the court was required to reduce the amount of damages to be recovered by the claimant, as elected by the defendant, by the sum of the dollar amounts of all settlements (dollar-for-dollar), a credit based on the percentage of liability assigned to the parties by the trier of fact, or a statutory sliding scale. H.B. 4, the tort measure enacted by the 78th Legislature, Regular Session, amended this provision, providing that, except for health care liability claims, nonsettling defendants would receive credit only for that percentage of fault assigned to settling persons. For health care liability claims, the court would reduce the award either by a percentage equal to each settling person's percentage of responsibility or dollar-for-dollar, as elected by the defendant.

This change meant that in nonhealth care liability claims, plaintiffs could potentially recover far in excess of their total damages, especially in lawsuits involving multiple defendants. Eliminating the dollar-for-dollar credit also created the potential for collusive settlements. This bill:

Provides that, in nonhealth care liability claims, if the claimant has settled with one or more persons, the court must reduce the amount of damages to be recovered by the claimant by the sum of the dollar amounts of all settlements.

Strikes the provision requiring a court, in nonhealth care liability claims, to reduce the amount of damages by a percentage equal to each settling person's percentage of responsibility if the claimant has settled with one or more persons.

Evidence in the Sentencing Phase of a Capital Felony Case—S.B. 1507

By Senator Hinojosa—House Sponsor: Representative Pena

In the punishment phase of a capital case, the state often offers evidence of the defendant's extraneous conduct and notice is generally provided to the defendant that such evidence will be presented in court. This bill:

Provides that the introduction of evidence of extraneous conduct is governed by the notice requirements of Section 3(g), Article 37.07 (Verdict must be general; separate hearing on proper punishment), Code of Criminal Procedure.

Increasing Juror Pay—S.B. 1704

By Senators Ellis and Wentworth—House Sponsor: Representative Hartnett et al.

At \$6 a day for jury service, Texas pays jurors the lowest rate in the country. Texas also contributes no state funds to jury pay. This bill:

Requires that jurors be paid a minimum of \$6 for the first day served as a juror, and not less than \$40 for each day served thereafter.

Requires the state to reimburse a county \$34 a day for the reimbursement paid to jurors for each day or fraction of each day served after the first day, and sets out the reimbursement procedure.

Provides that a person summoned for jury service who knowingly provides false information in a request for an exemption or to be excused from jury service is subject to a contempt action punishable by a fine of not less than \$100 nor more than \$1,000.

Authorizes a person summoned for jury service to request a postponement of the person's initial appearance for jury service, and sets out eligibility and procedures.

Requires a person convicted of any offense, other than offenses relating to a pedestrian or motor vehicle parking, to pay a fee of \$4 as a court cost, in addition to all other costs, to be used to reimburse counties for the cost of juror services.

Creates the jury service fund in the state treasury. The \$4 fee is deposited in this fund. If the unexpended balance of the jury service fund exceeds \$10 million, the comptroller must transfer the excess amount to the fair defense account.

Prosecution of the Offense of Capital Murder—S.B. 1791

By Senator Whitmire—House Sponsor: Representative Keel

Under current law, a person commits a capital offense if that person murders a peace officer or fireman who is acting in the lawful discharge of an official duty and who the person knows is a peace officer or fireman. The murder of a judge in retaliation for or on account of the service or status as judge is not currently a capital offense. This bill:

Amends the Penal Code to provide that a person commits capital murder if the person murders another person in retaliation for or on account of the service or status of the other person as a judge or justice of the supreme court, the court of criminal appeals, a court of appeals, a district court, a criminal district court, a constitutional county court, a statutory county court, a justice court, or a municipal court.

Authorizing the Denial of Bail to Certain Criminal Defendants—S.J.R. 17

By Senator Staples—House Sponsor: Representative Gattis

Current law requires a criminal defendant to be released on a reduced bond or a personal bond if the state is not ready for trial within 90 days of arrest in a felony case. Defendants who violate a condition of their bond must be offered an additional bond because current law does not allow the state to hold the defendants without bond until the time of the trial. This resolution:

Proposes an amendment to the Texas Constitution to authorize denial of bail to a criminal defendant who violates a condition of the defendant's release pending trial related to the safety of a victim of the alleged offense or to the safety of the community. The election on the specific proposition will occur on November 8, 2005.

Port Authority and Navigation District Proposal Evaluations—H.B. 769

By Representative Wayne Smith—Senate Sponsor: Senator Janek

The 78th Legislature, Regular Session, 2003, granted authority and set out guidelines for navigation districts and port authorities to select contractors for construction, maintenance, and repair projects using competitive sealed proposals (CSP). A CSP allows the authority or district to consider for a contract other than the lowest bid. In the prescribed process, the port must complete its review of the proposals within 45 qualifications days after the CSP is opened. Occasionally projects are so large or complicated that 45 days does not give the authority or district sufficient time to consider all the qualifications and values. This bill:

Allows a port authority or navigation district to specify a deadline of not more than 90 days to evaluate and rank each proposal submitted in relation to the published selection criteria.

Water Districts and Provision of Sufficient Services—H.B. 1207

By Representative Haggerty—Senate Sponsor: Senator Lindsay

In 2003, the legislature created a mechanism for landowners within a water district of 5,000 acres or more who have not received service from the district during the past 28 years to petition for the removal of their lands from the water district and established a deadline for submitting petitions. This bill:

Extends the sunset provision from August 31, 2005, to August 31, 2007.

Use of Eminent Domain by Conservation and Reclamation Districts—H.B. 1208

By Representative Gattis—Senate Sponsor: Senator Ogden

Current law allows a municipal utility district to exercise the broad power of eminent domain to condemn private property outside of its boundaries. It is sometimes necessary for a district to use this power in order to obtain easements for water and wastewater utility lines and for flood drainage control purposes. Under current law, a district could plat the entire area within the district's boundaries for residential or recreational use, while going outside its boundaries to condemn the property for water or wastewater facilities. This bill:

Limits the circumstances under which a district may exercise its authority to exercise the power of eminent domain outside the district's boundaries.

Conversion and Creation of Special Utility Districts—H.B. 1673

By Representative Robby Cook—Senate Sponsor: Senator Armbrister

Special utility districts (SUDs) are created by converting an existing, non-profit water supply or sewer service corporation into a political subdivision. Over the years, water supply companies (WSCs) have applied to the Texas Commission on Environmental Quality (TCEQ) for authorization to convert to SUDs.

The primary difference between a SUD form and a WSC form of water or sewer service is that the SUD enjoys greater efficiencies through an exemption from sales taxes under state law and tax exempt bond financing under federal law, which are cost efficiencies that ultimately benefit the customers. This bill:

Clarifies that only those powers specified by the water supply corporation in its resolution and application for conversion to a SUD may be considered in any contested hearing called by TCEQ and only those powers specified in that same resolution and application may be included in the TCEQ order creating the district.

Notice for Establishment of Municipal Management Districts—H.B. 1830

By Representative Wong—Senate Sponsor: Senator Ellis

Currently, when a municipal management district is established by the legislature, notice is posted 30 days before the introduction of the legislation. This bill:

Requires that a letter be sent to all property owners in the proposed district.

Real Property Transactions and Public Improvement Districts—H.B. 1919

By Representative Ray Allen—Senate Sponsor: Senator Harris

The 70th Legislature, 1987, authorized municipalities to establish public improvement districts (PIDs), created through a petition process initiated by affected property owners. Some purchasers of single-family residences within a PID are not advised of the existence of the PID and the nature and extent of the annual assessments for payment of the costs and maintenance of the public improvements undertaken within the PID. This bill:

Requires the seller of a single-family residence that is subject to a PID assessment to give written notice thereof to a prospective buyer of the residence at or prior to placing the residence under executory contract for the purchase of the property.

Political Subdivisions and Proposed Reservoir Construction—H.B. 2140

By Representative Phillips—Senate Sponsor: Senator Seliger

Local governments and citizens of affected political subdivisions have a vested interest in knowing when a reservoir is being proposed in their area. This bill:

Requires that an application to construct a storage reservoir contain evidence that notice of the application has been given to members of the governing bodies of each county and municipality in which the reservoir will be located.

Merging of Emergency Services Districts—H.B. 2235

By Representative Baxter—Senate Sponsor: Senator Barrientos

Some rural areas do not have access to effective and efficient emergency services. This bill:

Authorizes the merger of multiple emergency services districts into one district and provides a procedure for doing so.

Election of Municipal Utility District Directors—H.B. 2667

By Representative Dutton—Senate Sponsor: Senator Gallegos

Under current law, municipal utility districts (MUDs) are classified as political subdivisions, which are responsible for conducting their own elections. Many political subdivisions contract with the county so that the county clerk can provide election services for the political subdivision, but this is not required. Some elected officials have conducted their elections with reports of alleged nepotism, fraud, and abuse of public trust. This bill:

Requires the county clerk, or the county officer who performs the election duties of the county clerk, of the county in which the district is located to perform the duties of the board in regard to an election for a member of the board.

Requires the county clerk or other county officer of the county in which the most inhabitants of the district reside to perform the election duties if the district is located in more than one county.

Requires the district to pay the county for election services.

Competitive Bidding for Purchases by Emergency Services Districts—H.B. 2957

By Representative Hamric—Senate Sponsor: Senator Gallegos

An emergency services district (ESD) is a special district, established under Article III, Section 48-e, Texas Constitution, and Chapter 775, Health and Safety Code, to provide health and safety related services to persons and property within its boundaries. This bill:

Sets forth certain provisions relating to ESDs by exempting vehicle fuel and firefighter bunker gear purchased by ESDs from competitive bidding requirements.

State Travel Rates for Communications Districts—H.B. 3047

By Representative Veasey—Senate Sponsor: Senator Eltife

Current law permits several local government entities, including employees or officers of county and municipal governments and public junior colleges, to take advantage of reduced state travel rates. This bill:

Allows employees and board members of certain communication districts and emergency communication districts to utilize the travel contracts of the Texas Building and Procurement Commission's Central Travel Office on the same basis as other local government entities.

Flatrock Springs Municipal Management District—S.B. 1821

By Senator Fraser—House Sponsor: Representative Hupp

Burnet County is experiencing residential and commercial growth, and property owners located at the intersection of State Highway 71 and U.S. Highway 281 are managing growth to benefit residents in Burnet and Llano counties. The issuance of bonds would facilitate a proposed project that includes mixed use development of residential and commercial property. This bill:

Creates the Flatrock Springs Municipal Management District, granting authority for taxation and the issuance of bonds.

NASA Area Management District—S.B. 1867

By Senator Jackson—House Sponsor: Representative John Davis

Political subdivisions are created to administer and provide funding for community improvement projects and services within districts. This bill:

Creates the National Aeronautics and Space Administration (NASA) Area Management District as a political subdivision, located entirely within the City of Nassau Bay and Harris County.

Probationary Period of Persons in Certain Fire or Police Departments—H.B. 148

By Representative Harper-Brown—Senate Sponsor: Senator Carona

Currently, persons appointed to fire or police departments serve on probationary status for 52 weeks from the date of hire. This probationary period included 18 weeks of basic training, 15 weeks of field training with an officer and up to an additional eight hours of classroom training at the discretion of the department. The remaining probationary period allows only nine weeks of departmental evaluation as the new officer or firefighter acts in full capacity. This bill:

Allows the civil service commissions within each municipality to extend the probationary period up to six additional months for new police and firefighter recruits.

Civil Service Status of Fire Department Employees—H.B. 263

By Representative Madden—Senate Sponsor: Senator Shapiro

Chapter 143 (Municipal Civil Service), Local Government Code, requires that all employees performing certain duties in a fire department be civil service employees. This bill:

Authorizes current auxiliary employees to keep their jobs without having to take the civil service examination.

Allows all previously non-classified fire department employees to have the status of a civil service employee if they began that job before May 1, 2005.

Prohibits any employee granted civil service status from being promoted unless that employee passes the civil service examination.

Collection of Municipal Hotel Occupancy Taxes—H.B. 352

By Representative Goodman—Senate Sponsor: Senator Brimer

Under current law, cities are authorized to assess and impose a hotel occupancy tax. The revenues derived from this tax are used to finance tourism development projects within a municipality. Hotel owners are to collect the occupancy tax, file a quarterly report with the city, and submit their payment to the city. This bill:

Authorizes a city to hold operators who fail to pay taxes liable for the cost of an audit.

Authorizes municipalities to use previous years' tax filings to determine the amount due.

Authorizes a court to consider previous years' filings as prima facie evidence of the amount due.

Restrictive Covenants in Certain Residential Subdivisions—H.B. 638

By Representative Hegar—Senate Sponsor: Senator Armbrister

Under current law, property homeowners' associations can only be established in counties with populations of 190,000 or more or in smaller counties adjacent to counties with populations of 2.4 million or more. This bill:

Expands the jurisdictions to which procedures governing restrictive covenants are applicable.

Municipal Economic Development—H.B. 918

By Representative Krusee—Senate Sponsor: Senator Wentworth

Chapter 380 (Miscellaneous Provisions Relating to Municipal Planning and Development), Local Government Code, provides municipalities with a tool to stimulate economic development. This bill:

Allows cities to use the provision in areas of limited purpose annexation or extraterritorial jurisdiction.

Fitness Incentive Pay—H.B. 1213

By Representative Harper-Brown—Senate Sponsor: Senator Deuell

New recruits to police and fire departments are required to pass a physical examination before being accepted into their respective academies, yet there are no incentives for officers and firefighters to maintain a minimum level of physical fitness during their time on the force. This bill:

Permits municipalities to authorize fitness incentive pay for each firefighter or police officer who meets established fitness criteria.

Residential Foreclosures in Certain Counties—H.B. 1582

By Representatives Chavez and Leibowitz—Senate Sponsor: Senator Ellis

Studies suggest that low-income families and minorities are more likely to have subprime mortgage loans and to be susceptible to predatory lending practices, such as equity stripping and loan flipping. This bill:

Requires the Texas Department of Housing and Community Affairs to conduct a study to examine mortgage foreclosure rates in certain counties.

Municipal Participation in Contracts for Public Improvements—H.B. 1606

By Representative Thompson—Senate Sponsor: Senator Ellis

Currently, residential land developers can recover at least 70 percent, and in some cases up to 100 percent, of the infrastructure improvement costs, such as water and wastewater lines, when the development site is located within a municipal utility district (MUD), but only up to 30 percent of the cost when the development is within the city limits. Developments within the city have the costs of infrastructure improvements added on and passed through to the lot/home purchaser, whereas developments in a MUD have most, if not all, infrastructure costs reimbursed by the MUD. This bill:

Reduces the disparity between rural and urban developments by increasing the cap on developer reimbursements from municipalities to a level not to exceed 70 percent, rather than 30 percent, in a municipality with a population of 1.8 million or more.

Restrictions Governing Residential Subdivisions—H.B. 1631

By Representative Hilderbran—Senate Sponsor: Senator Fraser

Under current law, residential subdivisions in unincorporated areas of counties with more than 65,000 people are authorized to amend or modify existing covenants and building restrictions. Residential subdivisions in unincorporated areas in counties with less than 65,000 people are unable to amend covenants and building restrictions. Property owners within an unincorporated residential subdivision cannot amend, change, or modify the restrictive covenants without unanimous consent, and they do not have the ability to zone properties, control growth, or have building restrictions. This bill:

Allows residential subdivisions in unincorporated areas in counties with less than 65,000 the ability to amend or modify existing covenants, and building restrictions.

Certificates of Convenience and Necessity Municipal Annexation—H.B. 1644

By Representative Callegari—Senate Sponsor: Senator Lindsay

Current Texas law provides for bonds issued by municipal utility districts (MUDs) to be spent only for groundwater district works. There are a number of proposed development projects pending in this state in which a MUD or water control improvement district (WCID) has been created within the Certificate of Convenience and Necessity (CCN) area of another retail public entity. In many of these proposed developments, the existing retail service provider is not willing to release its CCN rights to the subject property. A letter opinion issued by the attorney general's office states that a MUD does not have the authority to issue bonds to finance facilities or pay costs that will be conveyed to or owned by a third party CCN holder. This bill:

Clarifies that WCIDs and MUDs have the authority to convey facilities to any other retail public utility and otherwise finance costs incurred by another retail public utility for purposes of making service available in the districts just as they are currently authorized to do with a municipal utility.

Annexation by General-Law Municipalities—H.B. 1772

By Representative Miller—Senate Sponsor: Senator Fraser

Type A general-law municipalities may involuntarily annex properties under very limited circumstances. These limitations do not allow a municipality to annex small pockets of unincorporated land that are completely surrounded by the municipality. This bill:

Extends the ability of a Type A general-law municipality that completely surrounds an area to annex the land if all other current conditions are met.

Competitive Sealed Proposals for Certain Construction Projects—H.B. 2661

By Representative Krusee—Senate Sponsor: Senator Ogden

In 2001, the 77th Legislature authorized municipalities to use competitive sealed proposals and other alternative bidding procedures including design/build, the construction manager-agent method, and the construction manager-risk method. These alternative bidding procedures were restricted to bids for construction, rehabilitation, alteration, or repair services for a facility, also known as "vertical" projects. This bill:

Allows municipalities to use competitive sealed proposal bidding procedures for "horizontal" projects, such as highways, roads, streets, and utilities, costing \$1.5 million or less.

Health Insurance Benefits and Purchasing Contracts—H.B. 2695

By Representative Anchia—Senate Sponsor: Senator West

Under current law, a county must give preference to the lowest bidder, even if the lowest bidder, or a subcontractor the bidder intends to use, does not provide health insurance benefits comparable to the health insurance benefits provided for employees of the county. This bill:

Authorizes a commissioners court to give preference to a bidder who provides and requires comparable health insurance coverage, if the bid is within five percent of the lowest bid price.

Historic Courthouse Preservation—H.B. 2902

By Representative Hilderbran—Senate Sponsor: Senator Fraser

The 76th Legislature, 1999, created the Texas Historic Courthouse Preservation Program to provide funding for the restoration and preservation of the state's historic courthouses. Since that time, the state has provided more than \$140 million to courthouse preservation projects. This bill:

Requires the Texas Historical Commission to develop and implement a maintenance program to assist counties receiving money under the Texas Historic Courthouse Preservation Program to continue to maintain, repair, and preserve those courthouses.

Authorizes the courthouse maintenance program to include periodic inspections, technical assistance, and information on best practices.

Moratorium on Certain Property Development—H.B. 3461

By Representatives Baxter and Callegari—Senate Sponsor: Senator Armbrister

Chapter 212, Local Government Code, sets out provisions for a municipality to govern plats and subdivisions of land within the municipality's jurisdiction, providing fairness and due process to residential developers. This bill:

Amends Section 212.131, Local Government Code, to redefine "property development" and add the definition of "commercial property."

Provides clear guidance and flexibility to municipalities with respect to adopting moratoria affecting commercial development.

County Authority and Gated Communities—S.B. 200

By Senator Gallegos—House Sponsor: Representative Wayne Smith

Under current law, counties do not have the statutory authority to regulate gated communities in unincorporated areas. This bill:

Grants certain counties the authority to regulate fire protection in multi-unit housing projects located outside municipal boundaries.

Permits fire protection authorities to access gated communities in the event of an emergency.

Eminent Domain and Certain Municipal Districts—S.B. 224

By Senator Ellis—House Sponsor: Representative Wong

Eminent domain is a sometimes controversial power of government whereby private property is taken for public use, but only in exchange for "adequate" compensation. There is an apparent contradiction in the law today concerning municipal management districts and their power of eminent domain. This bill:

Denies the power of eminent domain to 21 municipal management and improvement districts in Harris County.

Urban Land Bank Programs in Certain Municipalities—S.B. 356

By Senator Ellis—House Sponsor: Representative Thompson

Many older, urban areas are faced with a growing number of vacant and abandoned lots with property tax delinquencies that contribute to the destabilization of established neighborhoods, lowering property taxes in surrounding areas. This bill:

Establishes the Houston Urban Land Bank Program.

Provides that those properties on which taxes are delinquent for each of the preceding six years are eligible to be sold to the land bank and then resold for the sole purpose of producing single and multifamily housing on those properties.

County Fire Codes—S.B. 736

By Senator Brimer—House Sponsor: Representative Wayne Smith

Current law provides authority for counties to apply a fire code to commercial and public buildings. This bill:

Adds multi-family residential dwellings to the list of buildings in unincorporated areas to which fire codes and other requirements for such dwellings are applicable.

Approval of Local Government Permit Applications—S.B. 848

By Senator Shapiro et al.—House Sponsor: Representative Kuempel

The 76th Legislature, Regular Session, 1999, prohibited retroactive rulemaking in Chapter 245, Local Government Code, stating that the right to develop a project under existing regulations vests at the time the landowner files the first permit application. This bill:

Specifically defines and determines what "filed" means as it relates to city applications for land development permits.

Requirements for Removal of a County Treasurer—S.B. 1107

By Senator Madla—House Sponsor: Representative Casteel

Current law requires county treasurers who have been elected for the first time to take the oath of office prior to the end of the current treasurer's term of office. This may result in two persons holding the office simultaneously and nullify one person's bond. This bill:

Repeals Section 83.004(b) of the Local Government Code to bring treasurers in line with all other county officials.

Employment for Firefighters by Certain Districts—S.B. 1433

By Senator Madla—House Sponsor: Representative Rodriguez

Special purpose districts, such as emergency service districts, and the creation of fire departments created through an inter-local agreement between two or more entities have become commonplace. The non-municipal firefighters often do not have access to the same benefits and basic rights as municipal firefighters. This bill:

Provides for disciplinary suspension or dismissal of firefighters, and appeal procedures, for firefighters, of disciplinary suspensions or dismissals.

Bars in Neighborhoods—S.B. 1850

By Senator Gallegos et al.—House Sponsor: Representative Geren et al.

Currently, there is a concern about the increase in the number of bars in the midst of homes, schools, churches, and parks. Many of these small establishments operate in converted houses or garages in neighborhoods that lack the deed restrictions that might limit the bars to commercial thoroughfares. This bill:

Seeks to limit the number of particular types of bars in Harris County by making the permitting process and the consequences arising from suspension or cancellation of permits more stringent.

Food and Fibers Research Council—H.B. 373

By Representative Swinford—Senate Sponsor: Senator Jackson

Current state law establishes the Texas Food and Fiber Commission (commission) as a separate entity from the Texas Department of Agriculture (TDA). The commission prefers to consolidate with TDA. This bill:

Transfers the commission to TDA, creating the Food and Fiber Research Council as a component of TDA.

Animal Identification Program—H.B. 1361

By Representative Hardcastle et al.—Senate Sponsor: Senator Jackson

The number of animal disease outbreaks that have been reported around the globe over the past decade have greatly intensified public interest in developing a national animal identification program for the purpose of protecting animal health. The European Union, Canada, and Australia already have animal identification systems in place. The United States Department of Agriculture (USDA) plans to phase in the National Animal Identification System. This bill:

Implements an animal identification program that is consistent with that of the USDA.

Regulation of Noxious and Invasive Plants—H.B. 2313

By Representative Miller—Senate Sponsor: Senator Madla

Noxious and invasive plants have the potential to cause economic or environmental harm to the state. The nursery and landscape industry advocates a proactive, science-based, risk/benefit analysis approach to managing noxious and invasive plants. This bill:

Establishes the Texas Department of Agriculture (TDA) as the sole authority, with the consultation of stakeholders, responsible for publishing a list of noxious and invasive plants.

Addresses the introduction, sale, and distribution of noxious and invasive plants by the regulated community.

Selling Fish from Private Property—H.B. 3024

By Representative Byron Cook—Senate Sponsor: Senator Brimer

When a private landowner wants to thin a fish population for private water and fish management, the landowner cannot sell the fish without first having a TDA fish farm license, approval from the Texas Parks and Wildlife Department, and a letter from the Texas Commission on Environmental Quality stating that the landowner does not need a wastewater discharge permit. This bill:

Provides that no fish farming license is required for the sale of fish provided that the sale meets certain requirements.

Oyster Fishery License Moratorium—S.B. 272

By Senators Williams and Lucio—House Sponsor: Representative Seaman

Current law does not allow for a license management or license moratorium program for the commercial oyster fishery, allowing any person to obtain a license to commercially harvest and sell oysters in Texas. This open-access system has led to overcapitalization and a decline in the economic stability of the industry. This bill:

Authorizes the Texas Parks and Wildlife Department and the Texas Parks and Wildlife Commission (commission) to create a license moratorium program for a commercial oyster fishery.

Allows the commission to control the issuance of new licenses, establishes a moratorium on new or renewed licenses unless certain conditions are met by a license applicant, and establishes criteria for license renewal in subsequent years.

The Wine Industry and Agricultural and Tourism Businesses—S.B. 1137

By Senator Madla et al.—House Sponsor: Representative Swinford

Current provisions in the Alcoholic Beverage Code limit the number of wine festivals to four per year; indirectly prohibit the advertisement of where a Texas winery's products may be purchased; do not allow for the placement of directional signs on state highways if the winery is not located with driveway access to an eligible rural highway or intersecting crossroad; prevent the establishment of cooperative working relationships between wineries; and establishes a 75 percent requirement for Texas fruit in wines made by wineries in dry areas. This bill:

Requires the Texas Wine Marketing Research Institute or other qualified entity to conduct an annual study relating to the quantities and varieties of grapes and other fruit grown in this state that are used for wine making.

Outlines what the report should include and requires it to provide certain information to the commissioner of agriculture (commissioner).

Provides that if the commissioner determines that the quantity of a variety of grapes is insufficient for wine production in this state, then the commissioner may reduce the percentage required for that type of grape and allow for the acquisition of grapes from outside the state to meet the production needs.

Allows the commissioner to establish a voluntary registry for vineyards and other fruit growers and allows the fees to be assessed to cover the cost of administering such a registry.

Authorizes the establishment of a wine industry development advisory committee.

Establishes the wine industry development fund and outlines the purposes for which those funds may be used.

Allows the holder of a winery permit to serve beer and mixed beverages in certain circumstances and for a winery permit to be issued in dry areas under certain circumstances.

Authorizes the development of rules to address operating agreements between permit holders and for signs to be erected along state highways to inform and guide customers to a winery.

Provides for the implementation of the "Tourist-Oriented Directional Sign Program" by the Texas Transportation Commission.

Repeals sections of the law dealing with Wine Festivals and Major Agricultural Interest Signs.

Migratory and Upland Game Bird Stamps—S.B. 1192

By Senator Estes—House Sponsor: Representative Hilderbran

Currently, there are three game bird stamps which must be purchased from the Texas Parks and Wildlife Department in order to hunt the appropriate game bird: the white-winged dove stamp, the waterfowl stamp, and the turkey stamp. This bill:

Reorganizes the game bird stamps, replacing the existing three stamps with two: the migratory game bird stamp and the upland game bird stamp.

Protection and Development of Grape and Wine Production—S.B. 1370

By Senator Madla—House Sponsor: Representative Truitt

A basic level of viticulture education and research is currently provided through Texas A&M and Texas Tech universities, but only universities in California and Washington State offer four-year undergraduate degree programs in viticulture and/or enology. This bill:

Establishes a process by which revenues, generated from the growth of wine sales in this state, in excess of what would have been anticipated without the passage of recent legislation to stimulate that growth, will be captured for reinvestment into programs which will further stimulate the growth of the wine producing industry.

Boll Weevils and Pink Bollworms Eradication—S.B. 1428

By Senators Duncan and Seliger—House Sponsor: Representative Swinford

Cotton growers, in partnership with the state and federal governments, have made significant investments toward the eradication of boll weevils and pink bollworms in the state. Current law requires program retention referendums in each boll weevil eradication zone every four years. This bill:

Creates a statewide maintenance program for boll weevil and pink bollworm eradication to eliminate any potential areas of unexpected infestation.

Repeals the program retention referendum required in each eradication zone to only require one final referendum in each zone.

Energy-Saving Measures and Emissions Reduction—H.B. 2129

By Representative Bonnen—Senate Sponsor: Senator Armbrister

Efforts to improve air quality often focus on industry, but there are cost-effective measures that homeowners and businesses can take to improve air quality. Many organizations throughout the state have the expertise to develop residential and commercial energy efficiency programs that could clean the air and save consumers money and air quality improvements achieved through energy efficiency can be claimed under the state implementation plan. This bill:

Directs the Texas A&M Energy Systems Laboratory, the State Energy Conservation Office, and certain utilities to research consumer-oriented efficiency and air quality improvement options.

Implementation of Clean Coal Project—H.B. 2201

By Representative Hughes et al.—Senate Sponsor: Senator Estes

The United States Department of Energy has outlined an integrated carbon sequestration and hydrogen research proposal known as FutureGen that provides for \$800 million in federal funding and \$200 million to be funded by private industry and other nations. One of the critical selection criteria the Department of Energy has identified for the FutureGen project is the ability to ensure the predictable and timely permitting and construction of the components that will make up the FutureGen project. This bill:

Creates a more predictable and streamlined permitting process for the key components of the FutureGen project to better position Texas in the competition for the project.

Creates financial incentives to compete with the financial incentive packages being proposed by several other states competing for the FutureGen project.

Air Contaminant Emissions Reductions—H.B. 2481

By Representative Bonnen et al.—Senate Sponsor: Senator Harris

The Texas Emissions Reduction Plan (TERP), established by the 77th Texas Legislature, 2001, includes a number of voluntary financial incentive programs, as well as other assistance programs, to help improve the air quality in Texas. TERP is scheduled to expire in 2008 and air quality improvements achieved through energy efficiency and renewable energy can be claimed under the State Implementation Plan only if the necessary calculations are made to quantify the attributable emissions reductions. This bill:

Extends certain fees.

Provides that certain fees go to the Texas Department of Transportation (TxDOT) and that TxDOT pays the TERP fund a corresponding amount.

Directs the Texas A&M Energy Systems Laboratory and the Texas Commission on Environmental Quality to make the necessary calculations to quantify attributable emissions reductions.

Reduction of Diesel Exhaust Emissions from School Buses—H.B. 3469

By Representative Hochberg—Senate Sponsor: Senator Barrientos

Tailpipe exhaust can pollute the air inside school buses in quantities greater than are found outside the bus. Since children often ride buses to and from school for many years, exposure to the pollution can translate into higher risks of health problems later in life. This bill:

Directs the Texas Commission on Environmental Quality to administer the Clean School Bus Program to reduce the exposure of school children to diesel exhaust in and around diesel fueled school buses.

Emissions Reductions Exchanges—S.B. 784

By Senator Shapleigh—House Sponsor: Representative Haggerty

The Texas Commission on Environmental Quality (TCEQ) may authorize the use of emissions reductions achieved outside the United States to satisfy otherwise applicable emissions reduction requirements if certain conditions are met. The reductions must be in an area designated as nonattainment under the federal Clean Air Act. Currently, the only area to which this situation applies is El Paso and the federal Environmental Protection Agency is considering a request that would redesignate the El Paso air shed from nonattainment to maintenance. This bill:

Allows TCEQ greater discretion in its authorization of substitute emissions reductions achieved outside the United States to satisfy other emissions reduction requirements.

Outdoor Burning and the Texas Clean Air Act—S.B. 1710

By Senator Staples—House Sponsor: Representative Bonnen

Current Texas law gives the Texas Commission on Environmental Quality (TCEQ) authority to make rules prohibiting outdoor burning. TCEQ uses this authority to eliminate all open burning, regardless of the location of the burn, the substance being burned, or the impact on public health. This bill:

Requires TCEQ to adopt rules to allow burning of plant materials in ambient air quality attainment areas.

Municipal Solid Waste Landfills in Arid Areas—H.B. 1609

By Representative Chisum—Senate Sponsor: Senator Seliger

Current rules and statutes provide that an arid exempt landfill may receive up to 20 tons per day of waste Type 1 material (municipal solid waste) and Type IV waste (demolition debris). The current rule and practice is that the 20-ton limit applies to each type of material individually. This bill:

Clarifies that the 20-ton limit applies only to each type individually.

Allows a landfill to occasionally accept large amounts of debris without preventing the landfill from accepting municipal solid waste.

Disclosure of Texas Feed and Fertilizer Control Service Records—H.B. 1733

By Representative Swinford—Senate Sponsor: Senator Armbrister

Current law gives the Texas Feed and Fertilizer Control Service the authority to require each licensee to maintain records or file additional reports for the purpose of determining the accurate tonnage of commercial feed distributed in this state or identify or verify tonnage reports. This bill:

Provides that a record or report maintained or filed under Section 141.074, Agriculture Code, is confidential and not subject to required disclosure under Chapter 552 (Public Information), Government Code.

Regulation of Veterinary Medicine—H.B. 1767

By Representative Robby Cook—Senate Sponsor: Senator Armbrister

Some changes in technology can be used to circumvent the veterinarian-client-patient relationship (VCPR) and instances have been reported in which veterinarians have attempted to diagnose an animal over the phone.

The Veterinary Licensing Act currently authorizes a veterinarian to release information concerning the veterinarian's care of animals only when the veterinarian has received consent from the client or upon receipt of a court order or subpoena, but there are instances in which releasing confidential information is critical to individual and/or public health.

Under current law veterinarians are required to hold abandoned animals for a minimum of 12 days before disposing of them, but some owners leave animals at veterinary clinics with no intention of returning, creating greater expense for the veterinarians.

Because of current confidentiality statutes and concerns regarding possible retribution, some veterinarians may be hesitant to report suspected cases of animal abuse.

Current law prevents veterinarians from dispensing legend medications to persons unless a VCPR exists, but some emergency situations exist which make it necessary to dispense medication without a VCPR.

Prosecuting individuals attempting to practice veterinary medicine without a license may be difficult due to local bias. This bill:

Prohibits the VCPR from being established solely by electronic means.

Allows veterinarians to release the name and address of a client to a health authority, veterinarian, or physician in order to verify a rabies vaccination or obtain information for other treatment involving a life-threatening situation.

Reduces from 12 to 10 the minimum number of days required to hold abandoned animals before disposition.

Shields veterinarians who report abuse in good faith from suit.

Allows veterinarians to dispense a small percentage of the total drugs they supply to clients on an annual basis without the necessity of establishing a veterinarian-client-patient relationship.

Authorizes prosecution of individuals attempting to practice veterinary medicine without a license to be moved to Travis County or to remain in the county in which the offense occurred.

Hunting Deer with Dogs and Taking Wildlife Resources—H.B. 1959

By Representative McReynolds—Senate Sponsor: Senator Armbrister

Texas Parks and Wildlife Commission (TPWC) rules make it illegal to hunt deer with dogs in all Texas counties, but dogs can still be used to trail a wounded deer in all but 24 East Texas counties. Due to restricted visibility in East Texas forests, it is difficult for game wardens to enforce and charge violators who hunt deer with dogs. This bill:

Grants TPWC additional authority to adopt rules as to the type of firearms that can be used during open deer season when a person is in possession of a dog on property other than their own in the 24 East Texas counties.

Enhances the penalty for people who continue to hunt deer with dogs, consistent with other violations of the Parks and Wildlife Code.

Regulation of Underground and Aboveground Storage Tanks—H.B. 1987

By Representative Bonnen—Senate Sponsor: Senator Armbrister

The petroleum storage tank remediation account is due to expire on September 1, 2005. There are approximately 2,800 petroleum storage tank sites still being cleaned up today, and most of those sites will not make the September 1, 2005, deadline due to circumstances beyond their control. This bill:

Extends the life of the petroleum storage tank remediation account from September 1, 2005, to September 1, 2007.

Allows the Texas Commission on Environmental Quality (TCEQ) to place any sites remaining in the program after September 1, 2007, into the state-lead program for completion provided the owner or operator demonstrates progress in attempting to complete corrective action activities during the next two years. Also allows owners or operators to opt out of TCEQ's state-lead program and complete remediation activities themselves.

Removes the requirement that transporters of motor fuel be held responsible for depositing motor fuel into underground storage tanks which do not have a valid TCEQ-issued delivery certificate.

Makes a technical correction to certain cleanup standards impacting petroleum storage tanks and restores the cleanup standard for backfill that existed prior to September 1, 2003.

Texas Parks and Wildlife Code Updates—H.B. 2026

By Representative Hilderbran—Senate Sponsor: Senator Jackson

The Texas Parks and Wildlife Code must be updated by the Texas Legislature from time to time because of changes in wildlife management and enforcement theory. This bill:

Repeals some ambiguous language and clarifies a number of statutes related to the taking of wildlife resources, possession of wildlife eggs, and disposition of seized wildlife, including exotic livestock and fowl.

Repeals the alligator hunting license and allows a person to take an alligator with a hunting license.

Provides for the repeal of the maximum number of acres for a private bird hunting area and clarification of area sign placement.

Clarifies the definition of game birds held under a Game Bird Breeder's License and includes the egg of a game bird.

Makes it legal for a person to hunt an alligator, frog, or a turtle from a boat on public water.

Clarifies and simplifies taxidermy regulations.

Removes the archaic term of "game management officer" and replaces it with the term "game warden."

Deletes the archaic term "civet cat," included in the list of fur-bearing animals as a skunk.

Allows for the cost of any cold storage or processing necessary for a unlawfully possessed game bird, fowl, animal, game fish, or exotic animal to be included as court costs.

Repeals the ability to hunt a fur-bearing animal without landowner consent.

Joint Coordination of Recycling Activities—H.B. 2466

By Representative Swinford—Senate Sponsor: Senator Ellis

The Recycling Market Development Board (board) was established by the 72nd Texas Legislature, 1991, and charged with coordinating the recycling activities of all state agencies and pursuing an economic development strategy that focuses on the state's waste management priorities and development of recycling industries and markets. This bill:

Eliminates the board and establishes a joint coordination of recycling activities by the Texas Commission on Environmental Quality (TCEQ) and the Texas Building and Procurement Commission (TBPC) with the entities maintaining the functions and activities of the board.

Requires TCEQ and TBPC to utilize the Pollution Prevention Advisory Committee established in Section 361.0215, Health and Safety Code, in carrying out their recycling efforts.

Municipalities and Pipeline Companies—S.B. 480

By Senators Hinojosa and Williams—House Sponsor: Representative George "Buddy" West

Some municipalities have recently enacted ordinances that significantly increased the fees charged to pipeline companies to install, repair, or maintain facilities under, over, or along the public ways in municipalities. The ability of a municipality to charge gas, water, and electric distribution companies has already been limited by Section 182.025, Tax Code. This bill:

Allows a municipality to recover costs for the repair of any damage to the streets and alleys.

Allows municipalities an annual fee to recover the cost of regulating the location of the pipeline facility, including maintaining records and maps of pipeline locations.

Land Development Permits—S.B. 574

By Senator Armbrister—House Sponsor: Representative Pickett

Current statutes related to "vested rights" were created to protect the private property and development rights of landowners from the application of retroactive rulemaking by cities and other governmental entities. This bill:

Amends existing exemptions to clarify that zoning regulations or other land use regulations, annexation regulations, or regulations to prevent the imminent destruction of property or injury to persons affecting "landscaping or tree preservation" or "open space or park dedication" are not exempt from the application of the Act.

Clarifies and updates changes in regard to the language on dormant projects.

Clarifies that political subdivisions are not immune from suit for enforcement of Chapter 245 (Issuance of Local Permits), Local Government Code.

Energy Efficiency Programs—S.B. 712

By Senator Carona—House Sponsor: Representative Robby Cook

As our population grows, reducing overall energy consumption becomes an important legislative policy issue. This bill:

Encourages and facilitates the adoption of emerging energy and information-related technologies that either reduce overall energy consumption or reduce consumption at peak times by proposing modified efficiency goals.

Authorizes permanently retiring old, inefficient household appliances from the market by safely recycling them.

Requires the Public Utility Commission of Texas to establish market transformation programs for schools and homeowners.

Classification of Open-Space Land in Appraisals—S.B. 760

By Senator Armbrister—House Sponsor: Representative Straus

Chief appraisers in many counties include all open space land within their jurisdiction into broad, general classes of land use, such as "irrigated cropland," "dry cropland," "native pasture," or "improved pasture." This practice can result in uneven and inequitable valuation of land for tax purposes. This bill:

Provides chief appraisers with direction and tools to establish subcategories of open-space lands within existing classes of land use.

Coastal Erosion and Public Access to Beaches—S.B. 1044

By Senator Janek—House Sponsor: Representative Eiland

The Texas coast suffers one of the highest rates of coastal erosion in the country. Healthy full beaches are necessary for maintaining wildlife, protecting homes along the shore, and encouraging tourism, which many coastal communities depend upon for their tax base. This bill:

Provides funding for qualified coastal projects to mitigate coastal erosion.

Creates the Coastal Protection and Improvement Fund consisting of gifts and grants and appropriations of money by the legislature, administered by the commissioner of the General Land Office.

Directs the comptroller of public accounts to deposit a portion of the collections from the hotel occupancy tax received from coastal counties into the fund.

Pipeline Contamination Reporting—S.B. 1130

By Senator Hinojosa—House Sponsor: Representative Hilderbran

Often when a pipeline company is laying new pipe, the company will use an existing easement where other preexisting pipelines have already been placed and the pipeline company may come across pollution that was caused from leaks in the preexisting pipe. Current law requires a pipeline company to report any leaks or ground contamination that is caused by its own equipment but does not require a company to report contamination caused by another company. This bill:

Requires a common carrier or an owner or operator of a pipeline to report pollution observed or detected when in the process of the placement, repair, replacement, or maintenance of any pipeline.

Texas Farm and Ranch Lands Conservation Program—S.B. 1273

By Senator Jackson—House Sponsor: Representative Geren

Purchase of Development Rights (PDR) programs are voluntary transactions between landowners and public or private entities in which the development rights to real property are sold in order to preserve the land in its natural state. Through PDR programs, a cash payment is made to a landowner for the value of the development rights associated with a land parcel. The owner continues to own the land and is compensated for relinquishing the right to develop it commercially. Agriculture and other uses of the land continue. The cost associated with PDR programs is

generally less than the outright purchase of the land, and costs associated with subsequent management of the land remain the responsibility of the landowner. This bill:

Establishes a PDR program in Texas and provides for the voluntary purchases of development rights of real property.

Establishes the structure of the PDR program and a PDR account with the comptroller of public accounts so that private funds may be deposited and future funds may be leveraged.

Creates the implementation of rules to determine eligible property.

Regulation of Commercial Industrial Solid Waste Facilities—S.B. 1281

By Senator Armbrister—House Sponsor: Representative Bonnen

Current state law allows a commercial industrial solid waste facility to accept for profit hazardous and nonhazardous industrial solid waste without being subject to the state's hazardous and nonhazardous industrial solid waste permitting requirements. The exemption is allowed if the facility discharges the wastewater via pipeline to a publicly-owned treatment works facility. This bill:

Prohibits a commercial industrial solid waste facility from receiving industrial solid waste for discharge into a publicly-owned treatment works facility without first obtaining a permit from TCEQ.

Requires that the commercial industrial solid waste facilities comply with the state's hazardous and nonhazardous industrial solid waste permitting regulations.

Criminal Offense of Discharging Used Oil—S.B. 1297

By Senator Armbrister—House Sponsor: Representative Talton

Under current law, any quantity of used oil present in water discharge is a violation. The standard used by enforcement agencies is a visible sheen on the surface of discharge. This bill:

Provides an exception to the prohibition of discharging used oil into water in the state if the concentration of used oil resulting from the discharge as it enters the water is less than fifteen parts per million following the discharge.

Establishes a minimum measurable level of discharge that can be considered a violation.

Off-Highway Vehicle Trail and Recreational Areas—S.B. 1311

By Senator Hinojosa—House Sponsor: Representative Hilderbran

Designated trails in Texas allow off-road recreation while protecting natural habitats by limiting off-road vehicle usage in particular areas. This bill:

Establishes, within the Texas Parks and Wildlife Department (TPWD), a program to provide for a system of trails and recreational areas for use by off-highway vehicles.

Requires TPWD to establish trails and riding areas on land over which TPWD has authority or on land purchased by TPWD for that purpose.

Provides that the implementation and operation of the program be coordinated with the program regarding recreational sites not located in protected freshwater areas.

Provides that the program be self-funded through the purchase of decals, fines, federal funds and grants, and other sources determined by TPWD.

Regional Habitat Conservation Plans—S.B. 1455

By Senator Wentworth—House Sponsor: Representative Krusee

Currently, private landowners, corporations, state or local governments, or other non-federal landowners who wish to conduct activities on their land that might incidentally harm endangered or threatened wildlife must first obtain an incidental take permit from the United States Fish and Wildlife Service. To obtain a permit, the applicant must develop a regional habitat conservation plan which is designed to offset any harmful effect the proposed activity might have on the species, and often provide for setting aside species habitat preserve land as an integral component of the plan. This bill:

Lengthens certain timelines to allow greater flexibility in developing and implementing important conservation measures relative to potential preserve areas.

Clarifies that mechanisms identifying habitat preserve on a phased, rolling basis delay triggering Chapter 83 (Federal-State Agreements), Parks and Wildlife Code, timeframes until each preserve is identified.

Financing of Water and Sewer Programs in Disadvantaged Areas—H.B. 467

By Representative Bailey et al.—Senate Sponsor: Senator Gallegos

Currently, Harris County and adjacent counties have economically distressed areas that are lacking in adequate water and sewer services. Septic systems are leaching into the water table and may be contaminating the drinking water. This bill:

Provides for these areas to be eligible for grant or bond assistance under Chapters 16 (Provisions Generally Applicable to Water Development) and 17 (Public Funding), Water Code.

Identification of Major Water Infrastructure Facilities—H.B. 578

By Representative Campbell—Senate Sponsor: Senator Armbrister

Currently, there are no maps detailing the various water pipelines throughout the state. An all-encompassing map that identifies the locations of all existing water pipelines in the state could be used when a community experiencing a water shortage must find additional sources of water. This bill:

Requires regional water planning groups to submit to the Texas Water Development Board a regional water plan that identifies existing major infrastructure facilities.

Water Rates for Recreational Vehicle Parks—H.B. 841

By Representative Kolkhorst—Senator Sponsor: Senator Wentworth

Some retail water utility rates are regulated by the Texas Commission on Environmental Quality and some water and wastewater rates are set by cities. Some cities view recreational vehicle (RV) parks as "residential entities," instead of commercial entities like hotels and motels, in setting water and wastewater rates. This bill:

Requires municipal utilities to use the same basis for determining water and wastewater rates for campgrounds and RV parks as they use for similar commercial entities, such as hotels and motels.

Take-or-Pay Contracts on Water Conservation—H.B. 1224

By Representative Puente—Senate Sponsor: Senator Duncan

The Water Conservation Implementation Task Force (task force) recommended that the executive administrator of the Texas Water Development Board be required to study "take-or-pay" contracts and determine if they discourage conservation.

Take-or-pay water contracts are typically long-term contracts between a wholesale water supplier and a retail water supplier or user for provision of water regardless of whether the purchaser will use the entire volume of water. The purchaser gets no discount for using less than the volume specified. This bill:

Requires the executive administrator of the Texas Water Development Board to conduct a study on the effects of take-or-pay contracts on water conservation efforts.

Cancellation of a Water Right for Nonuse—H.B. 1225

By Representative Puente—Senate Sponsor: Senator Duncan

The Texas Commission on Environmental Quality (TCEQ) is the agency designated to administer the permitting of state surface water rights and is authorized to cancel a state surface water right if it has not been put to beneficial use for a period of 10 years. In order to encourage the conservation of water, the Water Conservation Implementation Task Force has recommended that TCEQ be given the authority to exempt a state water right from cancellation for non-use if the non-use was the result of water conservation measures. This bill:

Authorizes TCEQ to exempt a state water right from cancellation for non-use if the non-use resulted from a water conservation measures that was part of a water conservation plan submitted by the water right holder.

Port Authority Dredging and Hazardous Waste—H.B. 1705

By Representative Bonnen—Senate Sponsor: Senator Armbrister

Currently, there is not a specific law that applies to government-sponsored dredging and placement of materials as a government function. The dredging of encroaching sediments is typically conducted by the United States Corps of Engineers, provided they have a local sponsor. The local sponsor must be a governmental entity and provide placement areas for dredged sediments. This bill:

Establishes that dredging activities are a governmental function and that the governmental entity is not a generator of hazardous waste by its actions in dredging or placement of sediment.

Procedures for Groundwater Conservation Districts—H.B. 1763

By Representatives Robby Cook and Hope—Senate Sponsor: Senator Duncan

Chapter 36 (Groundwater Conservation Districts), Water Code, authorizes a groundwater conservation district to adopt rules and issue permits related to the regulation and management of groundwater resources located within its boundaries. Since groundwater conservation districts are not subject to the Administrative Procedures Act, it is necessary to clarify and prescribe the notice and hearing process to be utilized by the districts and to clarify that groundwater conservation districts may utilize alternative dispute resolution (ADR) procedures in the permitting process in order to facilitate resolution of conflicts and minimize costs for both the district and parties to a permit hearing. This bill:

Sets forth uniform procedures to be utilized by groundwater conservation districts regarding the notice and hearings process for both rulemaking hearings and permit application hearings, and clarifies that districts may use ADR procedures.

Change of Water and Sewer Utility Rates—H.B. 2301

By Representative Turner—Senate Sponsor: Senator Ellis

Current law requires investor-owned utilities to file rate increase applications 60 days before the new rates are requested to be effective. This bill:

Clarifies that a city has full authority to act on all aspects of a utility rate request.

Allows a city to suspend the date new rates would otherwise become effective for up to 90 days, increasing the municipal rate review period to 150 days.

Discrimination by Groundwater Conservation Districts—H.B. 2423

By Representative Puente—Senate Sponsor: Senator Armbrister

Most states treat farms participating in federal conservation programs, such as the United States Department of Agriculture's Conservation Reserve Program, as "active" for purposes of farm program benefits. In Texas, some groundwater conservation districts treat farms participating in federal conservation programs as inactive for the purpose of issuing permits based on historic use. This bill:

Prohibits a groundwater conservation district from discriminating against a farm participating in a federal conservation program.

Rainwater Harvesting Standards—H.B. 2430

By Representatives Puente and Rose—Senate Sponsor: Senator Armbrister

Rainwater harvesting is a potentially useful water conservation and reuse technique. Currently, there are no standards and guidelines for indoor use of rainwater, particularly with regard to technology and the incorporation of rainwater harvesting in municipal water systems. This bill:

Requires the Texas Water Development Board to establish a Rainwater Harvesting Evaluation Committee dedicated to studying the feasibility of using rainwater as a source of water supply.

Regulation and Maintenance of On-Site Sewage Disposal Systems—H.B. 2510

By Representative Bonnen—Senate Sponsor: Senator Jackson

Under current law, a county may require a consumer to purchase a maintenance plan upon installment of an aerobic on-site sewage disposal system and to provide periodic maintenance and inspection reports. If an inspection and maintenance operator does not fulfill contractual obligations, the system owner is out of compliance with the law. This bill:

Allows the Texas Commission on Environmental Quality or authorized agent to require maintenance companies to inspect systems and provides a penalty for noncompliance.

Regulation of Subsurface Area Drip Dispersal Systems—H.B. 2651

By Representative Krusee—Senate Sponsor: Senator Ogden

Subsurface drip dispersal systems reuse water for golf courses, park areas, neighborhood landscaping, school sports and playground facilities, and youth-league sports facilities. In 2001, the Texas Commission on Environmental Quality (TCEQ) determined that subsurface drip dispersal systems would not be included in the Underground Injection Code (UIC) program due to the irrigation and beneficial reuse labels. The United States Environmental Protection Agency (EPA) defined any injection within a "formation" as an injection well and stated that the root zone is part of the formation, requiring these systems to meet the federal UIC rules for class V injection. This bill:

Keeps subsurface drip dispersal systems from being placed under UIC requirements.

Requires TCEQ to create rules regulating subsurface drip dispersal systems separate from the underground injection category and sets up a permitting system for such systems.

Certificates of Public Convenience and Water and Sewer Service—H.B. 2876

By Representative Callegari et al.—Senate Sponsor: Senator Armbrister

Chapter 13 (Water Rates and Services), Water Code, provides the statutory framework for the issuance of certificates of convenience and necessity (CCNs) for water and sewer service by the Texas Commission on Environmental Quality (TCEQ). Generally, a utility may not render retail water or sewer utility service to the public without first having obtained a CCN that entitles a utility to be the sole, monopoly water or sewer utility provider in a certain area. Under current law, landowners are not required to consent to a CCN over their property; the CCN applicant does not need to show that any landowners requested utility service from the utility; and the only statutorily required notice is one newspaper publication. CCNs have been granted over tracts of undeveloped land without the ability to provide service to the entire area and once landowners are included in a CCN, without notice or consent or request for service, the landowners cannot remove their land from the CCN without going through an administrative process at TCEQ. This bill:

Reforms the process by which CCNs are created and maintained.

Grants TCEQ meaningful discretion with regard to its evaluation of CCN applicants while giving affected landowners greater latitude in deciding whether their land will be included in a certified area.

Allows certain landowners to petition TCEQ to have land decertified from a CCN if water or sewer service is inadequate or nonexistent.

Eligibility of Certain Rural Areas for State Assistance—H.B. 3029

By Representative Strama—Senate Sponsor: Senator Barrientos

During the 77th Legislature, Regular Session, 2001, the Pilot Program for Water and Wastewater Services was created to provide resources for rural communities that need water and wastewater loans. The current pilot program applies only to cities, counties, and certain districts and authorities with a population of less than 5,000. This bill:

Makes the pilot program permanent and expands the program to allow statewide access for certain communities that need water and wastewater services.

Coastal Erosion Studies and Projects—S.B. 517

By Senator Armbrister—House Sponsor: Representative Eiland

Currently, the Coastal Erosion Planning and Response (CEPRA) does not permit expenditure of CEPRA funds on any hard structure such as geotextile tube, seawall, or revetment that would be located on or landward of a public beach on the Gulf of Mexico shoreline. Geotextile tubes are fabric tubes filled with sand, placed parallel to the shoreline to protect property from storm surge and erosion. These tubes and all other types of erosion response projects except beach nourishment are considered hard structures. This bill:

Provides more flexibility for the use of CEPRA funding and broadens the scope of potential demonstration projects.

Watersheds Water Quality and Quarries—S.B. 1354

By Senator Estes—House Sponsor: Representative Jim Keffer

Currently, no existing law regulates discharges from quarry operations along a specific stretch of the Brazos River. Non-permitted rock mining operations along the Brazos River and its tributaries in Palo Pinto and Parker counties have changed the ecology of the river and impacted the quality of the surface water.

The Texas Commission on Environmental Quality performed an interim statewide study on this and similar issues and found that problems of this type are concentrated along this 115-mile section of the Brazos River. This bill:

Establishes specific permitting and enforcement programs for a short section of the Brazos River in Palo Pinto and Parker counties by developing a pilot permitting program requiring individual or general permits for quarries, depending on their proximity to the river.

Requires quarry operators to submit reclamation and restoration plans while providing financial assurances to mitigate damages from unauthorized discharges.

Water District Consent—S.B. 1498

By Senator Fraser—House Sponsor: Representative Hilderbran

Residents of certain water districts are fearful that a political subdivision will attempt to include the district within its boundaries without the consent of the district. This bill:

Prohibits certain water districts from being included in the boundaries of another political subdivision other than that of the county in which they are located unless the district consents.

Regulation of Poultry Facilities—S.B. 1707

By Senator Staples—House Sponsor: Representative McReynolds

The Texas Commission on Environmental Quality (TCEQ) has adopted rules dealing with concentrated animal feeding operations (CAFO) and dry litter poultry facilities which will go into effect April 2006. These rules recognize the water quality management plans as a method of meeting the technical requirements of the water quality permit under the Clean Water Act issued by TCEQ. This bill:

Clarifies that the Texas State Soil and Water Conservation Board has the authority to provide technical conservation planning assistance to dry litter facilities who are required to have a water quality permit coverage under the Clean Water Act.

Removes dry litter poultry operations from TCEQ's CAFO permit requirements.

Sale of Alcohol at Fairs, Festivals, and Concerts on Sundays—H.B. 168*By Representative Deshotel—Senate Sponsor: Senator Armbrister*

Currently, state law prohibits the sale of beer and wine prior to noon on Sundays. However, there is an exception which allows for the sale of beer and wine after 10 a.m. on Sunday at certain "sports venues." This exception for sports venues does not include the many fairs, festivals, and concerts that take place on Sunday mornings. This bill:

Amends the Alcoholic Beverage Code to provide that during the period which the sale and consumption of alcohol is authorized, a licensed or permitted premises located at a festival, fair, or concert is authorized to sell alcoholic beverages between 10 a.m. and noon and a person is authorized to consume alcoholic beverages at a festival, fair, or concert between 10 a.m. and noon.

Concealed Handgun Requirements Waived for Certain Persons—H.B. 685*By Representative Rose et al.—Senate Sponsor: Senator Van de Putte*

Currently, to obtain or renew a concealed handgun license in Texas, an individual must receive a handgun proficiency certificate from the Department of Public Safety (department). This requires the individual to successfully complete both a classroom education session and a handgun range instruction session.

However, this process is at times redundant for certain individuals who might already be effectively trained to use handguns. The largest group of individuals in this category are former members of the military, who often are required to range-qualify in the use of handguns in the course of their military service. This bill:

Amends the Government Code, by adding a section prohibiting a person from being required to complete the range instruction portion of a handgun proficiency course to obtain or renew a concealed handgun license if a form is submitted demonstrating the license holder's qualification for an exemption.

Requires the director of public safety (director), by rule, to adopt a procedure by which a license holder who is exempt under this Act from the range instruction portion of the handgun proficiency requirement may submit a form demonstrating the license holder's qualification for an exemption.

Requires the form to provide sufficient information to allow the department to verify whether the license holder qualifies for the exemption.

Requirements for Certain Barbering and Cosmetology Services—H.B. 1304*By Representative Wong—Senate Sponsor: Senator Van de Putte*

Currently, cosmetology nail salons are not required to use autoclaves to sanitize non-disposable instruments, which puts Texas citizens at risk of contracting dangerous infections and viruses. Among the Sunset Advisory Commission's recommendations to the 79th Legislature, Regular Session, 2005, is the recommendation that salons be required to use autoclaves to sanitize these instruments. This bill:

Amends the Occupations Code, setting forth certain provisions relating to a person who holds a license, certificate, or permit issued under this chapter and who performs a barbering service stating that those persons shall, before performing the service, disinfect and sterilize with an autoclave or a dry heat, ultraviolet, or other board-approved sterilizer each non-disposable instrument used to perform the service; and may use a disposable supply or instrument only if that supply or instrument is purchased at the location where the service is performed or provided by the person on whom the service is performed.

Provides that the owner or manager of a barbershop, specialty shop, or barber school is responsible for providing an autoclave or a dry heat, ultraviolet, or other State Board of Barber Examiners (board)-approved sterilizer for use in the shop or school.

Requires an autoclave or a dry heat, ultraviolet, or other board-approved sterilizer used to be registered and listed with the federal Food and Drug Administration and used in accordance with the manufacturer's instructions.

Clarification of Mold Remediation Certification—H.B. 1328

By Representative Naishtat et al.—Senate Sponsor: Senator Fraser

The 78th Legislature, Regular Session, 2003, enacted H.B. 329, which directed the Texas Department of Health to develop a program to train and license mold assessors and remediators. The program has been implemented, but during the interim, it was pointed out that there was a contradiction in the bill.

The section of the bill that amended the Insurance Code to prohibit an insurer from making an underwriting decision regarding a residential property insurance policy based on previous mold damage or a claim for mold damage provides that the assessor issuing the certificate of mold remediation to the property owner "must establish that the underlying cause of the mold at the property has been remediated." This bill:

Prohibits an insurer from making an underwriting decision regarding a residential property insurance policy based on previous mold damage or a claim for mold damage if the property was remediated, as evidenced by a certificate of mold remediation that establishes "with reasonable certainty that the underlying cause of the mold at the property has been remediated."

Requires a property owner, if the property owner sells the property, to provide to the buyer a copy of each certificate issued for the property under this section during the five years preceding the date the property owner sells the property.

Boundaries of a Telematics Service Provider Defined—H.B. 1531

By Representative Jim Jackson—Senate Sponsor: Senator Harris

Telematics service is provided to owners, operators, and occupants of consumer vehicles or commercial fleet vehicles through the remote access of in-vehicle data. The data may rely on global positioning system satellite information to fix the exact location of the vehicle and is enabled through the two-way communication of voice or data, often with an interactive voice response technology interface between a service subscriber's vehicle and a telematics company's response center. Telematics is provided to enhance vehicle service, safety, and convenience.

Current law does not clearly address whether a telematics service provider is subject to the Private Security Act. While telematics service providers do offer remote assistance to individuals with issues regarding their vehicles, they are not an alarm company. This bill:

Defines what a telematics service provider is, by the boundaries of its functions, and specifically exempts such providers from the requirements of the Private Security Act.

Defining Practice of Architecture—H.B. 1573

By Representative Geren—Senate Sponsor: Senator Harris

The current definition of the practice of architecture does not describe the services architects routinely provide for their clients beyond design development and the production of construction documents. This bill:

Provides a more accurate description of architecture practice.

Provides for a requirement to file a certificate of merit when a suit is being filed against an architecture or engineering business and establishes that failure to file an affidavit under this section shall result in dismissal of the case against the defendant.

Safety Standards for the Pipeline Transport of Certain Substances—H.B. 2161

By Representative George "Buddy" West—Senate Sponsor: Senator Seliger

Current Texas law does not define pipeline safety standards for those performing work in a pipeline right-of-way, and Texas does not meet current federal guidelines for pipeline safety prevention legislation or regulation. The leading cause of pipeline accidents in Texas is third-party damage. This bill:

Authorizes the Railroad Commission of Texas (RCT) to adopt certain standards and best practices outlined in the Pipeline Safety Act.

Grants RCT jurisdiction to enforce such standards and to bring administrative penalties for violations of such acts.

Environmental Regulation of Dry Cleaning Facilities—H.B. 2376

By Representative Elkins—Senate Sponsor: Senator Jackson

The 78th Legislature, Regular Session, 2003, passed H.B. 1366, addressing the environmental regulation and remediation of dry cleaning facilities. This bill:

Clarifies language and modifies the Dry Cleaner Remediation Program.

Redefines terms: "chlorinated dry cleaning solvent," "dry cleaning drop station," and "dry cleaning facility."

Requires the dry cleaner advisory committee and the Texas Commission on Environmental Quality (TCEQ) to develop and adopt rules.

Requires businesses operating on or before January 1, 2004, whose annual gross receipts are \$150,000 or less to implement performance standards.

Requires secondary containment for all new or replaced dry cleaning units, regardless of the solvent used.

Requires that wastewater from a dry cleaning unit using chlorinated dry cleaning solvent or discharge of chlorinated dry cleaning solvent not be discharged to a sanitary sewer, to a septic tank, or to water of this state.

Provides that the Dry Cleaning Facility Release Fund (fund) consists of money recovered by the state, including any money paid as penalties, rather than civil penalties.

Provides that an annual registration fee is assessed in a certain amended manner.

Requires the owner of a dry cleaning facility or drop station to post the owner's registration number in the public area of each of the owner's operating dry cleaning facilities or drop stations.

Requires TCEQ to request that the comptroller verify that the registration application is in good standing.

Requires the person who distributes the solvent to collect fees and to pay TCEQ the amount due.

Requires a person who distributes dry cleaning solvent to register as a distributor with TCEQ.

Authorizes the owner of a dry cleaning facility or drop station to file an option not to participate in fund benefits.

Requires an option not to participate to be filed on or before February 28, 2006, rather than January 1, 2004.

Requires TCEQ to designate a dry cleaning facility or drop station as nonparticipating if the owner demonstrates that perchloroethylene has never been used at that location.

Provides that a person who was the preceding owner of the real property on which the dry cleaning facility or drop station is or was located be responsible for any costs associated with the cleanup of contamination, if the person entered into an agreement with the current owner.

Authorizes TCEQ or the attorney general to bring a civil action to recover any amounts owed to the commission and to recover court costs.

Authorizes TCEQ to assess certain penalties for violations.

This is not a comprehensive description of the provisions of H.B. 2376.

Regulation Associated with Multiple Accumulations of Hydrocarbons—H.B. 2440

By Representative George "Buddy" West—Senate Sponsor: Senator Armbrister

The Railroad Commission of Texas (RCT) regulates activities associated with the production of oil and gas by regulating operations involving individual accumulations of oil and gas (reservoirs). RCT regulates the placement of wells and amount of allowable production from a well on a reservoir-by-reservoir basis. An operator must obtain a drilling permit for each reservoir that its well may penetrate and produce and account for the production from each reservoir that may contribute to a well's production. Current law allows RCT to authorize production from multiple separate reservoirs through a single, common wellbore (downhole commingling). RCT regulates combined reservoirs as a single common reservoir for regulatory purposes to prevent waste or protect correlative rights. This bill:

Clarifies that RCT has the authority to regulate all activities under its jurisdiction that are associated with multiple reservoirs for which the agency has allowed commingled production.

Sale and Service of Alcoholic Beverages—H.B. 2451

By Representative Joe Moreno et al.—Senate Sponsor: Senator Gallegos

Under current law, if a licensee holds a wine or beer retailer's permit or a beer retailer's license, and that licensee sells beer or wine after the legal hours of sale, or allows consumption on the premises, there is a specific charge for

that violation in the Alcoholic Beverage Code. It is an administrative violation as well as criminal violation. If a licensee holds a mixed beverage permit or a private club permit and sells or serves after hours, or allows consumption after hours, there is no specific charge, making criminal prosecution more difficult. This bill:

Prohibits the Texas Alcoholic Beverage Commission (TABC) or its administrator from suspending for more than 60 days or canceling an original or renewal permit if it is found, after notice and hearing, that the licensee consumed an alcoholic beverage or permitted one to be consumed on the licensed premises at a time when the consumption of alcoholic beverages is prohibited.

Prohibits TABC or its administrator from suspending for more than 60 days or canceling an original or renewal permit if it is found, after notice and hearing, that the licensee sold, served, or delivered an alcoholic beverage at a time when its sale is prohibited.

Provides that the offense is a Class C misdemeanor and is punishable by a fine of not more than \$50.

Repealing Regulation of Career Counseling Services—H.B. 2856

By Representative Uresti—Senate Sponsor: Senator Ellis

The career counseling services law was originally passed in 1987 to protect the consumer by monitoring the services of career services providers, but the law includes no mechanism for quality control and no provisions or guidelines for assessing the qualifications, background, or professional development of individuals who may become licensed. This bill:

Repeals Chapter 2502 (Career Counseling Services), Occupations Code.

"One-Stop Shopping" Source for Occupational Licenses—S.B. 96

By Senator Shapleigh—House Sponsor: Representative Solomons

The state website, www.TxOnline.com, has been proposed as host to a business portal that would serve as a "one-stop shopping" source for occupational licenses. This Web portal could be used for accessing licensing information. Similar initiatives have been enacted in New York and Pennsylvania. This bill:

Amends the Government Code to require each state agency to make available on its Internet website each of its forms used by the public.

Requires a state agency that has jurisdiction over matters related to occupational licenses, including a licensing entity of this state, to develop in cooperation with the TexasOnline Authority a link through the TexasOnline portal.

Commercial Gulf Shrimp Licenses—S.B. 454

By Senator Armbrister—House Sponsor: Representative Seaman

The Texas gulf commercial shrimp industry is overcapitalized and the profitability of the existing market participants has been jeopardized. A federal moratorium on shrimp licenses in federal waters that could drive more shrimpers into the gulf is anticipated by the end of March 2005. This bill:

Allows regulation of the issuance and renewal of commercial gulf shrimp licenses based on historical participation in the fishery.

Private Security and Personal Emergency Response System Providers—S.B. 568

By Senator Deuell—House Sponsor: Representative Truitt

Regulation of personal emergency response services was transferred during the 78th Legislature, 3rd Called Session, 2003, to the Department of State Health Services (DSHS). Following the implementation of the transfer, DSHS and the industry worked to implement the transfer and adopt rules. This bill:

Creates a chapter of the Health and Safety Code governing regulation of personal emergency response system providers by DSHS and clarifies that the new chapter would apply only to personal emergency response system providers, not security services contractors or alarm system companies.

Requires DSHS to conduct criminal history checks that relate to each applicant for a license or registration.

Authorizes a municipality that requires an alarm system permit before a person may use an alarm system in the municipality to impose an annual permit fee not to exceed \$50 annually for a residential location.

Establishes provisions related to individual alarm systems in a multiunit housing facility.

Provides that a permit may be revoked or not renewed if the alarm system has had eight or more false alarms in the previous 12 months.

Authorizes a municipality to impose a penalty for a false alarm if in the preceding 12 months there were at least three false alarms.

Sets forth the range of penalty fees that could be imposed based on the number of false alarms in a 12-month period.

Authorizes a municipality to require an alarm system monitor to attempt to contact the occupant of the alarm system location twice before the municipality responds to the alarm signal.

Provides that a municipality may not be held liable for damages that may occur relating to the cause of the alarm signal as a result of not responding to an alarm signal.

Establishes the duties of an alarm systems company on the installation or activation of an alarm system.

Prohibits an alarm systems company from installing any alarm system on or after January 1, 2007, that includes a detection device control panel unless the control panel meets or exceeds the standards of the American National Standards Institute for false alarm reduction.

Requires the private security board of the Department of Public Safety to adopt rules applicable to a license holder acting as an alarm systems company.

Sets forth certain requirements relating to written contracts for alarm system services and rules governing such contracts.

Sets forth provisions relating to regulation of personal emergency response systems and licensing providers of such systems.

Establishes certain restrictions relating to a political subdivision offering alarm system sales, service, installation, or monitoring.

Applies only to an alarm system installed or activated on or after January 1, 2006.

Regulation of Gas Production by the Railroad Commission—S.B. 1170

By Senator Armbrister—House Sponsor: Representative Crownover

Current law requires the Railroad Commission of Texas (RCT) to make monthly determinations on every common gas reservoir in Texas, regarding the production available and the market demand for gas. The RCT has statutory requirements for determinations that are no longer necessary to prevent the waste of gas reserves. This bill:

Removes the statutory requirement that the RCT determine the status of gas production from all gas reservoirs in the state.

Eliminates the requirement that the monthly reservoir market demand for gas be determined through a hearing.

Enables the RCT to streamline the regulatory process for setting gas well allowables.

Regulation of Oil and Gas Production by the Railroad Commission—S.B. 1175

By Senator Armbrister—House Sponsor: Representative Crownover

Current law mandates several types of determinations to be made by the Railroad Commission of Texas (RCT) for the amount of oil and gas that may be produced from within the state. It includes mandates that require all oil and gas fields to have a monthly determination of the allowable production calculated and published by the RCT. This bill:

Allows these permissive determinations if the RCT finds they are necessary to prevent waste discrimination.

Sale and Use of Refrigerants—S.B. 1290

By Senator Wentworth—House Sponsor: Representative Chisum

Current Texas law prohibits the sale or use of a flammable refrigerant or refrigerant substitute that contains a liquid petroleum-based product for use in an automotive, aviation, commercial, or residential air conditioning or refrigeration system. Hydrocarbon (HC) refrigerant technology now replicates the cooling characteristics of CFC R-12 (Freon) and is used throughout the world because of its non-ozone depleting, non-global warming, and energy saving qualities. This bill:

Provides an exception to the prohibition on sale of liquid petroleum-based refrigerants to allow the sale for use in a motor vehicle.

Brownfield Cleanup and Economic Redevelopment Programs—S.B. 1413

By Senators Shapleigh and Ellis—House Sponsor: Representative Wayne Smith

Currently, industrial entities which abandon land and leave behind contaminated soils, hazardous waste, or similar polluted conditions are not required to pay for the redevelopment of the vacated land. Brownfield redevelopment funds address environmental contamination while providing economic development. This bill:

REGULATORY

Provides local governments with the authority to establish a fund through a tax or fee assessment for investment in site cleanup and preparation.

Deputy Secretary of State—H.B. 297

By Representative McClendon—Senate Sponsor: Senator Wentworth

Currently, the title of the second highest position in the Office of the Secretary of State is the assistant secretary of state. The assistant secretary of state is regularly required to act in an official capacity for the secretary of state, serves as senior advisor and liaison to the governor for Texas border and Mexican affairs, and serves as chief international protocol officer for Texas. This bill:

Changes the title of assistant secretary of state to deputy secretary of state.

Reporting Requirements on Third Party Vendors—H.B. 905

By Representative Delisi—Senate Sponsor: Senator Williams

The state contracts with vendors to represent its interests in negotiating for certain items with other third party vendors. Because these vendors claim that pricing and other information is proprietary, the state has no way to determine whether arrangements between the vendors are in the state's best interest.

State agencies and institutions of higher education contract for many services, including external audits. Currently, however, the state does not know how much is being spent on external audit services, or whether these funds are being spent appropriately. This bill:

Requires entities subject to an audit to provide information to the state auditor to ensure that the state auditor can evaluate the entity's performance, determine the state's rights and remedies, and evaluate whether the entity has acted in the state's best interest.

Clarifies that certain not-for-profit corporations or state agencies can contract with a private auditor only if that authority is delegated to the corporation or agency by the state auditor.

Eliminates certain auditing exemptions provided to institutions of higher education.

Texas Industrial Emergency Services Board—H.B. 1267

By Representative Robby Cook—Senate Sponsor: Senator Armbrister

Currently, the Texas Industrial Fire Training Board (board) serves as an advisory board to the State Firemen's and Fire Marshals' Association of Texas. The board recommended that the name be changed to the Texas Industrial Emergency Service Board to better reflect the make-up of the board and its membership and the name change was approved at the 2003 State Firemen's and Fire Marshals' Association Training Conference and Convention. This bill:

Makes the necessary statutory changes to reflect the new name.

Department of Information Resources and State Electronic Services—H.B. 1516

By Representatives Isett and Swinford—Senate Sponsor: Senator Duncan

The Department of Information Resources (DIR) currently oversees cooperative contracts through which governmental entities may purchase information technology commodities and technical services. DIR also manages the state data centers in San Angelo and Austin. This bill:

Excludes telecommunications procurements from DIR oversight.

Provides that the data of federal databases and networks used for criminal justice and homeland security purposes is not required to be transferred to the state data center to preserve federal certification.

Jurisdiction of the Texas Historical Commission—H.B. 2025

By Representative Hilderbran et al.—Senator Sponsor: Senator Fraser

The National Museum of the Pacific War – Admiral Nimitz State Historical Site, located in Fredericksburg, is currently administered by the Texas Parks and Wildlife Department (TPWD). At the request of the TPWD, the Admiral Nimitz Foundation conducted a study and subsequently proposed this legislation to transfer jurisdiction to the Texas Historical Commission, seek funds for debt service, and authorize an agreement for the foundation to assume responsibility for the long-term administration and operation of the museum. This bill:

Authorizes TPWD to transfer historical sites, including the Nimitz Museum, to the Texas Historical Commission.

Authorizes the commission to request the Public Finance Authority to issue revenue bonds to finance the renovation, improvement, expansion, and equipping of the museum.

TexasOnline Authority—H.B. 2048

By Representative Uresti—Senate Sponsor: Senator Ellis

Texas launched TexasOnline, its official e-government website for state and local government businesses, in 2000. Demand for TexasOnline's services has steadily increased and questions have arisen concerning whether and how certain transactions can be conducted using TexasOnline. This bill:

Clarifies agency procedures for contracting with a third party for Internet application developments that duplicate a TexasOnline function.

Clarifies several provisions in the Government Code to better direct the Department of Information Resources and other state agencies in working with the TexasOnline Authority.

State Office Space—H.B. 2379

By Representative Swinford—Senate Sponsor: Senator Ellis

Currently the Texas Building and Procurement Commission (commission) is required to achieve a space allocation ratio of not more than an average of 135 square feet per agency employee, when practical to do so. Many agencies have responsibilities and job functions that necessitate more than an average of 135 square feet per employee. This bill:

Directs the commission to adopt rules consistent with private sector standards and industry best practices to govern the allocation of space.

TexasOnline Project and Related Powers and Fees—H.B. 2593

By Representative Baxter—Senate Sponsor: Senator Janek

Texas launched TexasOnline, its official e-government website for state and local government business in 2000. Demand for TexasOnline's services has been great but questions have arisen concerning whether and how certain transactions can be conducted. This bill:

Authorizes a state agency or local government that uses the TexasOnline project to charge a fee in certain circumstances.

Requires the Texas Online Authority (authority) to develop project pricing policies, including policies regarding any fees that a state agency, including the authority, or a local government may charge for a transaction that uses the project.

Prohibits the authority from charging the State Board of Barber Examiners or the Texas Cosmetology Commission a fee to use the project for the issuance of renewal of an occupational license.

Requires the authority to report on financial matters, including project costs and revenues and establishes provisions for the report.

Authorizes the Department of Public Safety (DPS) to adopt rules to require an inspection station to use TexasOnline to purchase inspection certificates or send to DPS a record, report, or other information required by DPS.

Rural Emergency Services Districts—H.B. 2619

By Representative Hegar—Senate Sponsor: Senator Zaffirini

Emergency Service Districts (ESDs) are political subdivisions established by the voters of an area for the purpose of raising money through ad valorem and/or sales taxes. ESDs provide emergency rescue and ambulance service and fire protection services. This bill:

Requires the Office of Rural Community Affairs to create a program that will provide rural communities with information, training, and technical assistance related to ESDs.

Legislative Budget Board Reporting Requirements—H.B. 2753

By Representative Pitts—Senator Sponsor: Senator Ogden

Various entities are required to report certain information to the Legislative Budget Board (LBB). This bill:

Amends the Code of Criminal Procedure, to provide that criminal justice agencies, the LBB, and the Criminal Justice Policy Council (council) are entitled to access to the databases of the Department of Public Safety (DPS), the Texas Juvenile Probation Commission (TJPC), the Texas Youth Commission (TYC), and the Texas Department of Criminal Justice (TDCJ) in accordance with applicable state or federal law or regulations.

Authorizes the LBB to submit data file requests other than the annual data file request without the approval of the director of the agency maintaining the requested records.

Requires the State Board of Education (SBOE), before each regular session of the legislature to, as determined by the SBOE, to report the equalized funding elements to the commissioner of education and the legislature.

Amends the Government Code to provide that this act applies to a meeting that is located in Austin.

Authorizes the director of the LBB (director) to employ personnel as necessary to perform the functions of the LBB.

Requires the director, rather than the LBB, to set the salaries of the personnel employed by the board.

Provides that until the LBB has completed a review, all information, documentary or otherwise, prepared or maintained in conducting a review or preparing a report of the findings of a review, is excepted from required public disclosure as audit working papers.

Authorizes the LBB to develop and perform functions to promote a more effective and cohesive state criminal justice system and to serve as the statistical analysis center for the state and as the liaison for the state to the United States Department of Justice.

Authorizes the director of the LBB to consult the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each standing committee of the senate and house of representatives having primary jurisdiction over matters relating to criminal justice and state finance or appropriations from state treasury.

Requires DPS, TDCJ, TJCP, and TYC to provide the LBB with data relating to a criminal justice policy analysis in the manner requested.

Provides that all written or otherwise recorded communications, including conversations, correspondence, and electronic communications, between a member of the legislature or the lieutenant governor and an assistant or employee of the LBB are excepted from the requirements of Section 552.021 (Availability of Public Information).

Excepts memoranda of a communication between a member of the legislature and the lieutenant governor or an assistant or employee of the LBB from the requirements of Section 552.021 without regard to the method used to store or maintain the memoranda.

Provides that this bill does not except from required disclosure a record or memoranda of a communication that occurs in public during an open meeting or public hearing conducted by the LBB.

State Agency Vehicle Fleets—H.B. 3227

By Representative Swinford—Senate Sponsor: Senator Lucio

The 76th Legislature directed the Office of Vehicle Fleet Management to adopt a statewide fleet management plan to improve the administration and operation of the state's vehicle fleet. This bill:

Grants all state agencies and institutions of higher education additional time to report the necessary data required by the Office of Vehicle Fleet Management.

Removal of Data from State Equipment—S.B. 255

By Senator Carona—House Sponsor: Representative Uresti

Currently, state agencies in Texas do not possess standardized rules pertaining to the sanitation process prior to the sale, transfer, or disposal of state computers, computer peripherals, software, or other information technology devices. This bill:

Requires a state agency to permanently remove data from processing equipment before disposing of or otherwise transferring equipment to an individual who is not a state agency or other agent of the state.

Requires the Department of Information Resources to adopt rules for implementation and sets forth guidelines for the rules.

Duties of the Texas Building and Procurement Commission—S.B. 452

By Senator Wentworth—House Sponsor: Representative Gattis

Currently, the Texas Building and Procurement Commission (TBPC) and the Office of the Attorney General (OAG) have certain duties and responsibilities under the Public Information Act. TBPC's duties include receiving reports from state agencies regarding requests for public information received and the costs of compiling and producing that information to the requestors. This bill:

Transfers all of the duties of TBPC pursuant to Chapter 552 (Public Information), Government Code, to the OAG in order to streamline the duties regarding public information into one agency.

Amends the composition of the open records steering committee to include a representative of the TBPC and five public members.

Requires each state governmental body to report certain information to the OAG rather than TBPC.

Texas Council on Autism and Pervasive Developmental Disorders—S.B. 882

By Senator Lucio—House Sponsors: Representatives Alma Allen and Naishtat

The definitions and duties of the Texas Council on Autism and Pervasive Disorders (council) need to be updated to conform with recent name changes. This bill:

Makes conforming changes to provisions of law affecting the council to reflect the current organizational structure, powers, and duties of Texas health and human services agencies.

Modifies the definition of "autism."

Changes the name of the council from the Interagency Council on Autism and Pervasive Developmental Disorders to the Texas Council on Autism and Pervasive Developmental Disorders.

Modifies the composition of the council and the terms of council members.

Authorizes the council to employ staff to carry out the responsibilities of the council.

Requires the executive commissioner of the Health and Human Services Commission (HHSC) to determine what funding resources are to be used for the council.

Modifies provisions relating to the advisory task force that assists the council.

Requires the council to obtain input from people with autism and other pervasive developmental disorders, their families, and related advocacy organizations in performing certain tasks and duties.

Requires the council, not later than November 1 each year, to prepare and deliver to certain executive and legislative oversight officials a report summarizing its recommendations.

Provides that funds may be appropriated from available resources for the council.

Directs the council to develop with HHSC, and any agency designated by HHSC, procedures for allocating available funds to certain programs.

Authorizes the commissioner of education, by rule, to require a school district to include in the individualized education program of a student with autism or another pervasive developmental disorder any information or requirement determined necessary to ensure the student receives a free appropriate public education as required under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

Requires the Texas Education Agency to establish a committee composed of parents of students with autism or other pervasive developmental disorders, teachers, school administrators, and other interested persons to study the rule concerning the content of an individualized education program.

Provides that school district employees or educational consultants or contractors who receive or are employed by entities that receive compensation from a school district may not constitute more than 50 percent of the committee.

Requires the committee, in studying the rule, to consider whether any other considerations, such as applied behavior analysis, communication training, or the use of inclusive settings, should be included in the rule.

Requires the committee, not later than July 1, 2006, to recommend to the commissioner any necessary changes to the rule.

Energy Conservation in State Buildings—S.B. 982

By Senator Van de Putte—House Sponsor: Representative Puente

Currently, state agencies and institutions of higher education are required to have the design architect and engineer on a construction project certify to the agency or institution that the project complies with the energy and water conservation design standards required under the Texas Government Code, but this certification may not always reach the appropriate authority with ultimate responsibility. This bill:

Requires the conservation design certification to be directed to the appropriate authority having jurisdiction.

Powers and Duties of the General Land Office—S.B. 1103

By Senator Eltife—House Sponsor: Representative Hughes

A vacancy is a tract of unsold, unsurveyed public domain, dedicated to the permanent school fund. The vacancy issue arises when surveys conducted in the present raise questions regarding the correct location of the survey lines called for in the original patents issued by the state. The Natural Resources Code provides the statutory framework for the commissioner of the General Land Office (GLO) and staff to determine the existence of a vacancy; however such determination is initiated only upon receipt of an application to lease or purchase the potential vacancy. This bill:

Defines terminology.

Allows the GLO commissioner (commissioner) to enter into a contract with a private party to provide required notices.

Requires that the completed application include certain information.

Requires the applicant to file the original and a duplicate copy of the vacancy with different entities.

Requires the commissioner to charge a filing fee of at least \$100 for each vacancy application.

Requires the commissioner to provide various notices to the applicant stating whether the application is administratively complete.

Requires the applicant to submit a deposit in an amount sufficient to pay reasonable costs incurred by the state.

Requires the commissioner to make any deposits to the credit of a separate trust in the state treasury, to provide a complete statement of all deposits and expenditures, and to remit to the applicant any remaining balance.

Requires the commissioner to appoint an attorney ad litem to identify all necessary parties and represent the interests of any necessary party that has not been located, if the applicant cannot provide evidence that the applicant owns all interest in the land surrounding the vacancy.

Requires the commissioner to provide written notice when a vacancy is filed and to notify each party of a final order.

Allows a necessary party to file an exception to the vacancy application.

Requires the commissioner to conduct an investigation of the vacancy application, including certain evaluations, reviews, and documents.

Requires the commissioner to provide written notice if a survey is required, stating that the survey may be observed and to adopt rules that permit the commissioner to remove an appointed surveyor on the grounds of bias, prejudice, or conflict.

Requires the surveyor to file a written report with the commissioner.

Requires the commissioner to provide a copy of the survey report to each necessary party by certified mail.

Requires the commissioner to order a hearing if a final order has not been issued on or before the first anniversary of the application commencement date and to enter a final order not later than 60 days after the hearing.

Allows the commissioner to determine that land claimed to be vacant is not vacant at any time during or after an investigation of or hearing regarding a vacancy application.

Prohibits a final order with a finding of "Not Vacant Land" from being appealed.

Requires the district court to conduct a trial de novo in an appeal of the commissioner's final order that a vacancy does exist.

Allows a person to appeal a final order determining that a vacancy exists if the person is a necessary party, has present legal interest in the surface or mineral estate, or acquires a legal interest before the date of the commissioner's final order.

Allows the applicant to purchase or lease the land determined to be vacant under certain circumstances and provides for the awarding of a nonparticipating royalty in certain circumstances.

Powers and Duties of the Texas Veterans Commission—S.B. 1480

By Senator Shapleigh—House Sponsor: Representative Uresti

The Texas Veterans Commission (commission) often receives requests to accept equipment that individuals and entities want to donate to the commission. Additionally, the commission is offered monetary gifts allocated to help veterans in the state. However, the commission does not currently have the authority to honor the requests of those who seek to assist veterans through donations to the commission. This bill:

Provides that the permanent fund for veterans' assistance is a special fund in the state treasury outside the general revenue fund and is composed of certain monies.

Authorizes the available earnings of the fund to be appropriated to the commission to enhance or improve veterans' assistance programs, including veterans' representation and counseling, and to make grants to local communities to address veterans' needs.

Authorizes the comptroller of public accounts to solicit and accept gifts and grants to the fund.

Interagency Work Group on Rural Issues—S.B. 1686

By Senator Estes—House Sponsor: Representative Hardcastle

Under current law, the Interagency Work Group on Rural Issues (work group) does not include an agency whose sole purpose is providing problem-solving options for rural Texans. This bill:

Allows the governor to designate a representative to provide those services to the state, specifically in rural areas, as a member of the work group.

Tampering with Direct Recording Electronic Voting Machines—H.B. 56*By Representative Denny et al.—Senate Sponsor: Senator Ellis*

Current law imposing penalties for election fraud refers to ballots. However, Direct Recording Equipment (DRE) voting machines do not have physical ballots because the information is stored electronically. It is unclear whether offenses relating to tampering with ballot boxes would apply to tampering with DRE voting systems. This bill:

Makes it a first degree felony for a person to knowingly access a DRE voting to affect the casting of votes.

Makes it a third degree felony if a person attempts, but fails, to violate this Act.

Uniform Election Dates—H.B. 57*By Representatives Denny and Branch—Senate Sponsor: Senator Jackson*

Current Texas law requires most elections to be held on one of four uniform election dates. According to the Texas Secretary of State, less than three percent of political subdivisions in the state hold elections on the uniform dates in February and September. These extra elections generally have low participation and are costly to taxpayers. Additionally, concerns have been expressed by those who administer elections about the timing of the May uniform election date and some of the procedures related to that election day. This bill:

Reduces the authorized dates from four to two, leaving May and November.

Removes the exceptions for school and college district bond elections.

Moves the May uniform election date from the first to the second Saturday and modifies procedures related to the May date.

Electronically Readable Information on Driver's License in an Election—H.B. 178*By Representative Denny—Senate Sponsor: Senator Averitt*

The 78th Legislature, Regular Session, 2003, adopted S.B. 1445, which specified individuals who were permitted to access or use the electronically readable information contained on a driver's license. This bill:

Permits an election officer to access electronically readable information on a driver's license or personal identification card for proof of identification when determining whether a voter shall be accepted for voting.

Requires the secretary of state to prescribe necessary procedures to implement this Act.

Barring Sound Amplification Devices Near a Polling Place—H.B. 535*By Representative Madden et al.—Senate Sponsor: Senator Williams*

Current law prohibits operating a vehicle with a loudspeaker for the purposes of campaigning within 1,000 feet of a polling place. However, the use of other sound amplification devices, such as bullhorns, within 1,000 feet of a polling place is not prohibited. This bill:

Makes it an offense to operate a sound amplification device within 1,000 feet of a polling place for the purposes of making a political speech or electioneering during the voting period.

Publicizing Voters' Rights—H.B. 719

By Representative Jesse Jones et al.—Senate Sponsor: Senator West

Many voters may not be aware of federal and state laws protecting voting rights. In 2002, the federal government passed the Help America Vote Act, which requires states to educate voters regarding their rights. This bill:

Requires the secretary of state to adopt rules providing for publicizing voters' rights.

Provides that notice of those rights be publicized, including posting notices at polling places.

Sets out what rights must be included in the notice.

Requires the secretary of state to prescribe the form and content of the notice in accordance with this Act.

Public Hearing Regarding Approval of Voting System—H.B. 2465

By Representative Denny—Senate Sponsor: Senator Fraser

The Texas Election Code currently sets forth provisions relating to the process by which the secretary of state approves voting systems or voting system equipment (voting systems) for use, including an examination of each proposed voting system by a group of appointed examiners. There is controversy regarding whether these examinations are subject to the Open Meetings Act, because the examiners are not a governmental body and these meetings can include detailed discussion of the machines, which may reveal trade secrets. This bill:

Requires the secretary of state to conduct a public hearing to provide persons an opportunity to express their views for or against the approval of a voting system after the delivery of the examiners' reports and before the determination of whether the voting system satisfies the applicable requirements for approval.

Provides that the secretary of state will consider the views expressed at the public hearing before determining whether the voting system satisfies the applicable requirements for approval.

Women's Independence Day—H.B. 67

By Representative McClendon et al.—Senate Sponsor: Senator Van de Putte

Changing social conditions for women during the early 1800s led to the birth of the women's suffrage movement, which lasted at least 70 years, from the first formal women's convention in 1848 to the passage of the 19th Amendment to the United States Constitution in 1920. Currently, there is not a Texas law that commemorates the women's suffrage movement. This bill:

Designates August 26th as Women's Independence Day to commemorate the ratification in 1920 of the 19th Amendment to the United States Constitution, which guaranteed women the right to vote.

Provides that Women's Independence Day shall be regularly observed by appropriate programs in the public schools and other places to inspire a greater appreciation of the importance of women's suffrage.

Complaints Against Law Enforcement Officers—H.B. 639

By Representatives Bailey and Pena—Senate Sponsor: Senator Barrientos

Current law requires that complaints against law enforcement officers employed by the state, and police officers or firefighters not covered by a civil service statute, be in writing and signed by the complainant. The statute also provides that disciplinary action may not be taken against a covered employee unless a copy of the complaint is given to the employee. Though statute refers to complaints against law enforcement officers, it is not sufficiently clear that it applies to all law enforcement officers. This bill:

Ensures that procedures for investigating complaints apply to all law enforcement officers, including all peace officers defined in the Code of Criminal Procedure, county jailers, and detention officers.

Provides that an officer may not be terminated based on the subject matter of a complaint unless the complaint is investigated and there is evidence to prove the allegation of misconduct.

Reverse Auction Procedure—H.B. 908

By Representative Turner—Senate Sponsor: Senator Estes

Legislation passed during the 77th Legislative Session, 2001, authorized the Texas Building and Procurement Commission (TBPC) to use online "reverse auctions" to purchase goods and services. In a reverse auction, suppliers, rather than buyers, bid on-line for contracts. Prices for goods and services begin high and are driven down as suppliers compete for a winning bid. This bill:

Prohibits the use of reverse auctions in obtaining goods or services, including professional or consulting services related to the construction, remodeling, repair, or maintenance of a building or public work.

Requires TBPC to use the reverse auction procedure when the procedure provides the best value to the state or all purchasing methods provide equal value to the state.

Requires TBPC to offer historically underutilized businesses assistance and training relating to the reverse auction procedure and advise historically underutilized businesses on contracts available using the reverse auction procedure.

Requires TBPC to set a goal of purchasing at least 20 percent of the dollar value of goods or services it purchases using the reverse auction procedure.

Proxy for Legislative Member of a Metropolitan Planning Organization—H.B. 1339

By Representative Strama—Senate Sponsor: Senator Barrientos

Section 472.031, Transportation Code, authorizes a metropolitan planning organization to include in its bylaws the appointment of (Policy Board) voting proxies for its members. This bill:

Provides that a legislative member of a policy board may only appoint a proxy who is: the legislative member's employee or staff member; a person related to the member within the second degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code, who is not required to register as a lobbyist under Chapter 305, Government Code; another legislative member of the policy board; or a locally elected official.

Continuing Education for Peace Officers—H.B. 1438

By Representative Talton—Senate Sponsor: Senator Whitmire

The Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) requires that a peace officer complete at least 40 hours of continuing education each 24-month period in order to remain commissioned. Current law contains no exemption for an officer serving on active military duty and does not require that an officer be notified before his or her license is suspended for non-compliance. This bill:

Requires TCLEOSE to credit a peace officer with meeting the continuing education requirements of this section if during the relevant 24-month period the peace officer serves on active duty as a member of the United States military for at least 12 months or serves as an elected member of the legislature. Credit for continuing education under this subsection does not affect any requirement to demonstrate continuing weapons proficiency.

Requires TCLEOSE to require agencies to report to TCLEOSE in a timely manner the reasons that a peace officer is in noncompliance after the agency receives notice by TCLEOSE of the peace officer's noncompliance.

Requires TCLEOSE, following receipt of an agency's report or on a determination that the agency has failed to report in a timely manner, to notify the peace officer by certified mail of the reasons the peace officer is in noncompliance and, at the request of the peace officer, to hold a hearing if the peace officer fails to obtain the required training within 60 days after the date the peace officer receives notice.

Requires TCLEOSE to conduct a hearing if the peace officer claims that mitigating circumstances exist, or that the peace officer failed to complete the required training because the peace officer's employing agency did not provide an adequate opportunity for the peace officer to attend the required training course.

Arson and Arson Investigation—H.B. 1634

By Representative Ray Allen et al.—Senate Sponsor: Senator Gallegos

Current law does not address offenses relating to causing a fire to ignite or an explosion to occur as a result of the manufacturing of a controlled substance, specifically methamphetamine. Current arson statutes require a conscious intent to cause damage to property. This bill:

Amends the Penal Code by making the reckless causing of a fire or an explosion while manufacturing a controlled substance and in the process damaging any building, habitation, or vehicle an offense punishable as a state jail felony.

Provides that the offense is punishable as a felony of the third degree if the commission of the offense caused bodily injury or death to any person.

Provides that it is a felony of the third degree to intentionally start a fire in or on a building, habitation, or vehicle with intent to damage or destroy property belonging to another, or with intent to injure any person, and in so doing to recklessly cause damage to the building, habitation, or vehicle.

Authorizes the actor to be prosecuted under multiple sections of the code.

Provides that a person commits an offense if the person is the owner of property subject to an arson investigation and the person refuses to be sworn, refuses to appear and testify, or fails and refuses to produce before the county fire marshal any book, paper, or other document relating to any matter under investigation if called on by the marshal to do so.

Star of Texas Awards—H.B. 1977

By Representative Gallego—Senate Sponsor: Senator Gallegos

The 78th Texas Legislature, 2003, designated September 11 as Texas First Responders Day and created the Star of Texas Award to be given to peace officers, firefighters, and emergency medical technicians (EMTs) who are seriously wounded in the line of duty, or to the surviving families of those who are killed in the line of duty. This bill:

Clarifies that the Star of Texas Award is to be awarded to each peace officer, firefighter, and EMT who is seriously injured or killed in the line of duty.

Cultural and Fine Arts District Program—H.B. 2208

By Representative Phillips—Senate Sponsor: Senator Zaffirini

As traditionally measured, the cultural arts are responsible for about 19.8 percent of the total tourism in the state. This bill:

Gives the Texas Commission on the Arts the authority to establish criteria for culture and arts districts, promoting culture and artistic assets.

Use of Driver's License Information in an Image Verification System—H.B. 2337

By Representative Corte et al.—Senate Sponsor: Senator Staples

A driver's license is the most common form of identification used by individuals in Texas. This bill:

Requires the Department of Public Safety (DPS) to establish an image verification system based on an applicant's facial image and an applicant's thumbprints or fingerprints.

Authorizes DPS, subject to appropriation, to use the \$1 fee collected upon registration of a motor vehicle to support the DPS driver's license project which includes image comparison technology in the reengineering of the driver's license system.

Removes the restriction on using biometric information.

Requires DPS to authenticate the facial image and thumbprints or fingerprints provided by an applicant for a personal identification certificate, driver's license, or commercial driver's license or permit using image comparison technology to ensure that the applicant:

- is issued only one original license, permit, or certificate;
- does not fraudulently obtain a duplicate license, permit, or certificate; and
- does not commit other fraud in connection with the application for a license, permit, or certificate.

Requires DPS to use the image verification system established under this Act only to the extent allowed by Chapter 730 (Motor Vehicle Records Disclosure Act), Transportation Code, to aid other law enforcement agencies in establishing the identity of a victim of a disaster or crime that a local law enforcement agency is unable to establish; or conducting an investigation of criminal conduct.

Requires DPS to provide a statistical report annually to the legislature describing the rate of error presented in the image verification system, including the rate of incorrect matching of facial images, categorized by race.

Requires a driver's license application to include:

- the thumbprints of the applicant or, if thumbprints cannot be taken, the index fingerprints of the applicant;
- a photograph of the applicant;
- the signature of the applicant; and
- a brief description of the applicant.

Provides that notwithstanding any other provision of this Act, if an agency obtains an image of an individual's thumb or finger in connection with the issuance of a license, permit, or certificate to the individual, the agency may:

- use the image only in connection with the issuance of the license, permit, or certificate; or to verify the identity of an individual; and
- disclose the image only if disclosure is expressly authorized by law.

Contracts for Construction Projects and Professional Services—H.B. 2525

By Representative Callegari—Senate Sponsor: Senator Lindsay

Currently, cities, counties, school districts, universities, and other agencies have several alternatives to traditional low-bid delivery of certain construction projects. These alternatives include construction manager-agent, competitive sealed proposals for construction services or negotiated contracting, construction manager-at-risk, design-build, and job order contracting. The authorization to use alternative project delivery is limited to vertical, or architectural, construction. This bill:

Consolidates alternative project delivery processes into a single chapter of the Government Code.

Expands the types of entities that may use these procedures to include hospital districts, transit authorities, and others.

Allows construction manager-at-risk and competitive sealed proposals for construction services to be used for all types of projects including water, wastewater, transportation, utilities, and other improvements to real property.

Fees and Penalties Imposed for False Alarms—H.B. 2626

By Representative Wayne Smith—Senate Sponsor: Senator Lindsay

Currently, a sheriff's office in a populous county may charge a penalty or fee for responding to a false alarm after the fifth occurrence in a 12-month period. However, in some counties, deputy constables often respond to alarm calls, rather than sheriff's deputies. This bill:

Clarifies that a county with a population of more than 3.3 million may also charge for responses by county constables.

Removes the prohibition on imposing penalties or fees for the first five false alarms in a 12-month period.

Clarifies that a county may contract with a private vendor or attorney for the collection of delinquent false alarm fees and that a civil action may be filed to collect on all false alarm fees and fines.

Electronic and Information Resources for Individuals with Disabilities—H.B. 2819

By Representatives Rose and Leibowitz—Senate Sponsor: Senator Madla

Texans with disabilities are increasingly using technology to communicate with and access information from the state. Any federal agency purchasing electronic and information technology requires their vendors to ensure compliance with federal standards for accessibility to websites and telecommunications. Several states have adopted the federal standards by reference. This bill:

Creates consistency by having the same accessibility standards as federal agencies, other states, and even within different Texas state agencies.

Exempts an agency from compliance if an undue burden results.

Disclosure of Information and State Agency Purchasing Personnel—H.B. 2932

By Representative Delisi et al.—Senate Sponsor: Senator Zaffirini

Employees of the State of Texas who are involved with purchasing decisions are not currently required by statute to disclose family relationships involving vendors. This bill:

Requires these state employees to disclose such relationships.

Repair and Reconstruction of Public Works Projects—H.B. 2949

By Representative Geren—Senate Sponsor: Senator Lucio

Current Texas law grants authority to the Texas Commission on Environmental Quality (TCEQ) to issue an emergency order to allow immediate action to facilitate the repair of, replacement of, or addition to facilities that have been damaged or made inoperable by a catastrophic event. This bill:

Allows TCEQ to issue emergency orders to authorize the temporary relocation and repair or reconstruction of public works projects that have been damaged or destroyed due to unforeseen acts of nature or other emergencies.

Security of Computer Networks in State Government—H.B. 3112

By Representative Cortez—Senate Sponsor: Senator Wentworth

The security of state computer networks is currently handled by each agency on an independent basis. As computer needs arise, agencies with resources to fill these needs often find solutions, while agencies with limited resources are often forced to choose between accessibility and security.

A recent report by the Department of Information Resources (DIR) recommends that the state develop a shared statewide technology infrastructure to support increasing demands on agency operations. In response, DIR is embarking on a major effort to consolidate the computer networks of most, or all state agencies over time. Combined with the Data Center consolidation initiative, this will enable consolidation of facilities, mainframes, data storage management and other common computer needs. This bill:

Provides for a system of shared computer security throughout the state agencies that are consolidated.

Creates a Network Security Center (center) into which the state can eventually consolidate all state network security.

Sets out specific services that are to be provided by the center.

Requires DIR to set up a payment for services billing system to each state agency or other entity using the services.

Barring Purchase of Service Credit in Teacher Retirement System—H.B. 3169

By Representative Crownover—Senate Sponsor: Senator Duncan

Currently, a participant in the Teacher Retirement System of Texas (TRS) may establish up to three years of service credit if the member has at least seven years of actual membership service. A participant establishes service credit by depositing with TRS, for each year of service credit, the actuarial present value of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit. TRS then must grant the member one year of equivalent membership service credit for each year of credit approved. Eliminating the option of buying back years of service will encourage teachers to retire later and alleviate escalating costs to TRS. This bill:

Repeals Section 832.405 of the Government Code, which grants TRS participants the option of purchasing up to three years of service credit.

Defining Marriage as the Union of One Man and One Woman—H.J.R. 6

By Representative Chisum et al.—Senate Sponsors: Senators Staples and Williams

During the 78th Regular Session, 2003, the Texas Legislature enacted S.B. 7, also known as the "Defense of Marriage Act" (DOMA). While Texas law prohibited issuing a marriage license to persons of the same sex, S.B. 7 made a marriage between persons of the same sex or a civil union contrary to the public policy of the state and void in Texas. This bill:

Proposes a constitutional amendment to define marriage as the union of only one man and one woman.

Prohibits the recognition by this state or a political subdivision of this state of any legal status identical or similar to marriage.

Spanish Language Content on TexasOnline—S.B. 213

By Senator Shapleigh—House Sponsor: Representative Martinez Fischer

As Texas residents become increasingly dependent on the Internet, the state's website, www.TexasOnline.com, continues to evolve to meet the public's need for access to state government information and services. Nearly one-third of all Texans speak Spanish and 10 percent of Texans speak no English. This bill:

Requires each state agency to make a reasonable effort to ensure that Spanish-speaking persons of limited English proficiency can meaningfully access state agency information online.

Solicitation of Charitable Contributions—S.B. 245

By Senator Gallegos—House Sponsor: Representative Phillips

Section 552.007 (Solicitation by Pedestrians), Transportation Code, prohibits solicitations by a person standing in a roadway, but provides that a person may solicit charitable contributions if the person is granted authorization by a local authority having jurisdiction over the roadway. This bill:

Provides employees of local municipalities the ability to solicit charitable contributions while standing in the roadway.

Mass Gatherings—S.B. 270

By Senators Madla and Gallegos—House Sponsor: Representative Mowery

Under current law, a mass gathering is defined as a gathering that is held outside the limits of a municipality and attracts or is expected to attract more than 5,000 people who will remain in the meeting location for more than five continuous hours. Some promoters schedule events and mass gatherings just under the five-hour time period or state that fewer than 5,000 people are expected or allowed to be present to avoid obtaining a permit or providing the minimum standards of health, sanitation, traffic control, medical care, and general safety for the public. This bill:

Changes the definition of a mass gathering by reducing from 5,000 to 2,500 the number of people which constitutes a mass gathering and includes specific types of gatherings as mass gatherings.

Open Government Training—S.B. 286

By Senator Wentworth—House Sponsor: Representative Baxter

Open government requirements for meetings of governmental bodies and for disclosure of public information, found in Chapters 551 and 552 of the Government Code, apply to nearly all governmental officials and entities in Texas. Although failure to comply with either the Open Meetings Act or the Public Information Act may result in civil or criminal penalties, there is no uniform requirement or mechanism to provide open government training to public officials. This bill:

Requires each elected or appointed public official to complete a course of training of not less than one hour and not more than two hours regarding the official's responsibilities regarding open government within 90 days of taking office.

Requires the official to take at least one training course biennially after completing the initial training.

Requires the attorney general to ensure that training is made available and authorizes the attorney general to provide the training or approve a training program offered by another entity.

Authorizes the entity providing the training to provide a certificate of completion to the official and provides that the certificate is admissible as evidence in a criminal prosecution under the Open Meetings Act or the Public Information Act.

Texian Navy Recognition Day—S.B. 318

By Senator Staples—House Sponsor: Representative Hopson

Currently, the state of Texas does not officially recognize the historical significance of the Texian Navy. In 1994, Governor Ann Richards proclaimed the week of September 1-7 as Texas Navy Week. However, this was inconsistent with historical celebrations recognized by the Sons of the Republic of Texas and the Daughters of the Republic of Texas. This bill:

Designates the third Saturday of September as Texian Navy Day.

Exemptions from Emergency Medical Services Laws—S.B. 521

By Senators Madla and Eltife—House Sponsor: Representative Uresti

Currently, non-ambulance vehicles used to transport patients between medical facilities or between a private residence and a medical facility are exempted from regulation by the Department of State Health Services (DSHS). These vehicles are not staffed by licensed or certified emergency services personnel; nor do they have equipment for medical emergencies. This bill:

Exempts from regulation a ground transfer vehicle and staff used to transport a patient who is under a physician's care between medical facilities or between a medical facility and a private residence, unless it is medically necessary to transport the patient using a stretcher; air transfer that does not advertise as an ambulance service and that is not licensed by DSHS; the use of ground or air transfer vehicles to transport sick or injured persons in a casualty situation that exceeds the basic vehicular capacity or capability of emergency medical services providers in the area; an industrial ambulance; or a physician, registered nurse, or other health care practitioner licensed by this state unless the health care practitioner staffs an emergency medical services (EMS) vehicle regularly.

Establishes that a provider qualifies as a basic life-support EMS provider if it provides a vehicle that is designed for transporting the sick or injured, has personnel and sufficient equipment and supplies for providing basic life support, and is capable of providing emergency and nonemergency transportation.

Requires an EMS provider, in addition to any other qualifications that an EMS provider must possess to obtain the type of license sought, to possess the qualifications required for a basic emergency medical services provider.

Regional Emergency Medical Dispatch Resource Center Pilot—S.B. 523

By Senators Deuell and Van de Putte—House Sponsor: Representative McReynolds

Both the 77th Texas Legislature, 2001, and the 78th Texas Legislature, 2003, authorized a pilot program to test the efficacy of using emergency medical dispatchers located in a regional dispatch resource center to provide certain instructions to 911 callers in certain parts of rural Texas. Appropriated funding was not certified by the comptroller of public accounts in 2001 and while funding was appropriated and certified last session, the pilot program has not yet been implemented. This bill:

Defines "center" as the area health education center at The University of Texas Medical Branch at Galveston.

Requires the center, rather than the Texas Department of Health (TDH), to establish a regional emergency medical dispatch resource center pilot program.

Authorizes the center, with the assistance of the emergency medical services advisory council, to select public safety answering points to participate in the pilot program or to serve as regional emergency medical dispatch resource centers.

Authorizes a public safety answering point to participate in the pilot program and serve as a regional emergency medical dispatch resource center.

Requires a public safety answering point selected for the pilot program or to serve as a resource center to: have a fully functional quality assurance program that measures each emergency medical dispatcher's compliance with the medical protocol; have dispatch personnel who meet the requirements for emergency medical dispatcher certification or the equivalent as determined by the Texas Department of State Health Services; use emergency medical dispatch protocols approved by a physician medical director knowledgeable in emergency medical dispatch; have sufficient experience in providing pre-arrival instructions; and have sufficient resources to handle the additional workload and responsibilities of the pilot program.

Requires the center, in selecting an existing public safety answering point to act as a resource center, to consider a public safety answering point's ability to keep records and produce reports to measure the effectiveness of the pilot program. Requires the center to share information regarding a public safety answering point's abilities with the advisory council.

Requires the center, with the assistance of the advisory council, to define criteria that establish the need for emergency medical dispatch intervention to be used by participating public safety answering points to determine which calls are to be transferred to the regional emergency medical dispatch resource center for emergency medical dispatch intervention.

Authorizes money in the 9-1-1 services fee fund to be appropriated to The University of Texas Medical Branch at Galveston on behalf of the center to fund the pilot program.

Authorizes the center and The University of Texas Medical Branch at Galveston on behalf of the center to seek grant funding for the pilot program.

Authorizes a political subdivision that participates in the pilot program to pay an appropriate share of the cost of the pilot program.

Requires the center to biennially report its findings to the governor, the presiding officer of each house of the legislature, and the advisory council not later than January 1 of each odd-numbered year through 2009.

Authorizes the center to appoint a pilot program work group to assist the center in developing, implementing, and evaluating the pilot program and preparing a report on the center's findings.

Prohibits a member of the work group from receiving additional compensation for serving on the pilot program work group and being reimbursed for travel or other expenses incurred while conducting the business of the pilot program work group.

Provides that the pilot program expires September 1, 2009.

University of North Texas Missing Persons DNA Database—S.B. 651

By Senator Harris—House Sponsor: Representative Geren

S.B. 1304, 77th Legislature, Regular Session, 2001, established the Texas Missing Persons DNA Database (TMPDD) at the University of North Texas Health Science Center at Fort Worth (UNTHSC), which offers services necessary to process and analyze all unidentified remains samples and any samples associated with "high risk" missing persons cases throughout the state. The UNTHSC DNA Identity Laboratory is one of three facilities in the country capable of uploading DNA data into the Federal Bureau of Investigation's (FBI) Combined DNA Index System (CODIS). A federal requirement for a lab to participate in the CODIS system is that the lab be considered a law enforcement entity. As a result, the FBI has indicated that UNTHSC's DNA Identity Laboratory cannot establish a link with CODIS in cases involving murder, sexual assault, or burglary because it is established under the Education Code. This bill:

Transfers the existing statutory language establishing the TMPDD at UNTHSC from Subchapter I, Chapter 105 (University of North Texas System), Education Code, to Chapter 63 (Missing Children and Missing Persons), Code of Criminal Procedure, to enable UNTHSC to directly upload forensic information into the CODIS system.

Requires a physician acting on the request of a justice of the peace under Subchapter A (Duties Performed by Justices of the Peace), Chapter 49, a county coroner, a county medical examiner, or other law enforcement entity, as appropriate, to collect samples from unidentified human remains.

Requires the justice of the peace, coroner, medical examiner, or other law enforcement entity to submit those samples to the center for forensic DNA analysis and inclusion of the results in the DNA database.

Requires UNTHSC, after it has performed the forensic DNA analysis, to return the remaining sample to the entity that submitted the sample.

Firearm Use on Annexed Land—S.B. 734*By Senator Williams et al.—House Sponsor: Representative Mowery*

Under current law, municipal regulations apply to property annexed by the municipality. In some parts of the state, large tracts of land that have traditionally been used for hunting leases have been annexed. Upon annexation, the municipality frequently informs the owners of these large tracts that they can no longer discharge firearms on the property, thereby ending their right to lease their property for hunting. This bill:

Prevents municipalities from restricting the discharge of firearms on recently annexed tracts of land under certain conditions that protect the public safety.

Promotional Exams for Firefighters and Police Officers—S.B. 863*By Senator Van de Putte—House Sponsor: Representative Corte*

Members of fire departments and police departments are subject to promotional exams to be considered for a promotion in rank. Many firefighters and police officers are also military guardsmen or reservists who often miss promotional exams while deployed on active duty. This bill:

Allows for the administration of promotional exams for firefighters and police officers who are deployed on active duty with the military.

Authority to Make an Extra-jurisdictional Arrest or Seizure—S.B. 907*By Senator Whitmire—House Sponsor: Representative Woolley*

Current law is unclear regarding the jurisdiction of a municipal police officer. This bill:

Authorizes certain peace officers when outside of the officers' jurisdiction to arrest without a warrant a person who commits any offense within the officer's presence or view, except that an officer may arrest a person for a violation of Subtitle C, Title 7 (Vehicles and Traffic), Transportation Code, only if the offense is committed in the county or counties in which the municipality employing the peace officer is located.

Requires a peace officer making an arrest under this Act to as soon as practicable after making the arrest notify a law enforcement agency having jurisdiction where the arrest was made.

Requires the law enforcement agency having jurisdiction where the arrest was made to then take custody of the person committing the offense and take the person before a magistrate, and treat any property seized during or after the arrest as if the property had been seized by a peace officer of that law enforcement agency.

TexasOnline Project and Grant Assistance—S.B. 1002*By Senator Madla—House Sponsor: Representative Delisi*

Many small communities, nonprofit organizations, and faith-based organizations do not have the resources or expertise immediately available to properly research and develop a grant proposal. This bill:

Creates the TexasOnline project for grant assistance provided by state agencies.

Requires the Department of Information Resources, in conjunction with the Office of the Governor, to create a single site with all agency grant information.

Allows the electronic submission of state grant assistance applications in a streamlined and simplified process.

Restrictions on and Reporting of Certain Lobby Expenditures—S.B. 1011

By Senator Harris—House Sponsor: Representative Swinford

Under current law, restriction and reporting requirements relating to the expenditures of registered lobbyists are limited to certain individuals and certain types of expenses. Lobbyists are uncertain as to how they should report certain expenses and which expenses are prohibited. This bill:

Modifies Section 305.0062 (Expenditures Attributable to Groups), Government Code, by adding a category for guests, when invited by an individual falling under an existing reportable category, to the list of categories that lobbyists must use for reporting expenditures.

Modifies the list of exceptions to prohibitions on lobbyist expenditures and clarifies that expenditures for transportation and lodging made in connection with a fact-finding trip include attendance at informational conferences, seminars, educational programs, and similar events.

Includes expenditures for food, beverages, and entertainment in the list of permitted expenditures made in connection with attendance at a conference, seminar, educational program, or similar event in which the member renders services.

Promotional System for Certain Firefighters and Police Officers—S.B. 1050

By Senator Van de Putte—House Sponsor: Representative Bailey

Current law provides for promotion procedures for firefighters and police officers. Within these procedures are vague provisions relating to the application of seniority points applied after a person takes a written examination and the date a vacancy occurs in a non-entry position is not defined. This bill:

Clarifies that the award of seniority points after a person takes a promotional examination is made if the person scores a 70 or above, and defines that a vacancy occurs in a non-entry position on the date a person resigns, retires, dies, or is promoted to a higher classification or is indefinitely suspended.

Clarifies the appeal options available to a firefighter or police officer, when appealing a promotional passover.

Local Option Elections on the Sale of Mixed Beverages—S.B. 1246

By Senator Brimer—House Sponsors: Representative Woolley et al.

Current law states that local option elections under the Alcoholic Beverage Code are placed on the ballot by means of petition. The minimum petition requires a number of signatures equal to 35 percent of the voters who voted in the most recent gubernatorial election, gathered within 60 days. Due to the petition requirements, it is virtually impossible to call an election in a populous area. This bill:

Amends the Alcoholic Beverage Code to add a section regarding local option elections that is applicable to a county with a population of more than 1.4 million; a county with a population in excess of 300,000 adjacent to a county with a population of more than 1.4 million; and a municipality with a population of at least 50,000 located in a county with a population of at least 250,000 that is located on the Gulf of Mexico and along the Texas-Louisiana border.

Sets forth provisions regarding the guidelines for a political subdivision holding an election.

Amends the Alcoholic Beverage Code to set forth provisions for local option elections authorizing the sale of mixed beverages in restaurants in a political subdivision.

Eligibility for Positions in Certain Police and Fire Departments—S.B. 1421

By Senator Gallegos—House Sponsor: Representative Bailey

Chapter 143 (Municipal Civil Service Act), Local Government Code, provides specific and mandatory provisions for hiring entry-level firefighters. Applicants participate in a written examination and are placed on the eligibility list based on the person's written score. This bill:

Permits a child or adopted child of a firefighter who died in the line of duty to be placed at the top of the eligibility list, provided the person meets all other qualifications for the position.

Parking for State Employees—S.B. 1533

By Senator Barrientos—House Sponsor: Representative Uresti

Many state parking lots and garages are leased after hours and on weekends and charge a parking fee for public use. This bill:

Provides that a person displaying a valid State of Texas employee identification card may not be charged to use any state parking lot or garage after hours or on weekends.

Filing of Fraudulent Documents—S.B. 1589

By Senator Carona—House Sponsor: Representative Swinford

Under current law there is no requirement or authority for a county clerk who believes a document is fraudulent to seek assistance. This bill:

Requires a county clerk and the secretary of state, who in good faith believes that an instrument or document is fraudulent, to notify the county or district attorney, or the attorney general, as applicable, before filing, for a determination of whether the document is fraudulent.

Communication Districts and State Travel Services Contracts—S.B. 1663

By Senator Eltife—House Sponsor: Representative Veasey

Current law permits several local government entities to take advantage of state travel rates, including employees or officers of county and municipal government and public junior colleges. This bill:

Allows employees and board members of certain communication and emergency communication districts to utilize the contract of the Central Travel Office of the Texas Building and Procurement Commission (commission) for airline fees and travel agent fees when traveling on official district business.

Allows the commission to charge a district an adjustable fee that does not exceed the commission's cost of providing such services.

Permits for Construction Activities—S.B. 1740

By Senator Staples—House Sponsor: Representative Bonnen

Current law requires applicants seeking an air permit amendment to obtain a final decision on the permit from the Texas Commission on Environmental Quality (TCEQ) before beginning construction. This bill:

Authorizes applicants seeking a permit amendment to begin construction prior to a final decision by the TCEQ.

Specifies that the applicant assumes responsibility for proceeding before receiving a final decision, and prohibits TCEQ from considering construction efforts when evaluating the merits of the amendment application.

Texas State Historian—S.B. 1787

By Senator Duncan—House Sponsor: Representatives Hilderbran and Oliveira

Creates the position of Texas state historian as an honorary position, similar to the Texas poet laureate, Texas state artist, and Texas state musician. The position will recognize the importance of history for the people of Texas and accentuate the emphasis Texans place on disseminating their heritage through education.

The Texas state historian will focus on the written history of the state and encourage the knowledge and the teaching of Texas history.

Certain Persons May Obtain a Copy of Military Discharge Records—H.B. 18

By Representative Corte—Senate Sponsor: Senator Van de Putte

Upon discharge from the military, veterans receive paperwork that contains confidential information. Generally, this paperwork is filed with the local county clerk's office for safekeeping. Before 2003, this paperwork was available to members of the general public through the Open Records Act. During the 78th Legislature, Regular Session, 2003, H.B. 545 was enacted making these records confidential for a period of 75 years, and mandating that only veterans, their legal guardians, spouses, parents, or closest living relative, are allowed to inspect the records and obtain a copy of the record free of charge. The record is also available to a representative of the veteran's estate, a person granted power of attorney by the veteran, or another governmental agency. Currently, since representatives of funeral homes are not expressly granted access to veteran discharge records, a family member or other authorized person must take care of these details. This bill:

Amends the Government Code to include an authorized representative of a funeral home that assists with the burial of a veteran amongst the individuals authorized to inspect the military discharge record or obtain from the governmental body free of charge a copy or certified copy of the letter, on request and presentation of proper identification.

Disclosure Concerning Local Government Officers and Vendors—H.B. 914

By Representatives Woolley and Wong—Senate Sponsor: Senator Williams

Currently, certain financial or business relationships between officers of local government entities and those who enter into contract with local government entities are not required to be disclosed. This bill:

Defines terms, including "family member," "local governmental entity," and "local government officer."

Provides that this Act applies to nongovernmental persons who contract or seek to contract for the sale or purchase of property, goods, or services with a local governmental entity.

Requires local government officers to file a conflicts disclosure statement with respect to such person if the person has:

- an employment or business relationship with the officer or officer's family member; or
- has given to the officer or a family member certain gifts.

Makes failure to knowingly file such statement a Class C misdemeanor.

Sets when the disclosure statement must be filed and what it must contain.

Authorizes a local governmental entity to extend the requirements of the Act to its employees and makes it a Class C misdemeanor for an employee to knowingly violate this Act.

Sets forth the disclosure requirements for certain vendors and other persons contracting or seeking to contract with a local government entity.

Requires the Texas Ethics Commission to adopt a conflict of interest questionnaire for use by such persons and sets out what this questionnaire must include.

Requires local government entities to make available to the public information regarding their government officers and persons who may be required to file a questionnaire under this Act.

Privacy Policy Required to Disclose a Social Security Number—H.B. 1130

By Representative Byron Cook et al.—Senate Sponsor: Senator Ellis

Currently, the Business & Commerce Code does not require a person to provide a privacy policy to an individual when requiring that individual to disclose the individual's social security number to obtain goods or services or enter into a business transaction. This bill:

Prohibits a person from requiring an individual to disclose the individual's social security number to obtain goods or services from or enter into a business transaction with the person, unless the person adopts a privacy policy, makes the privacy policy available to the individual, and maintains under the privacy policy the confidentiality and security of a social security number disclosed to the person.

Requires a privacy policy to include how personal information is collected, how and when the personal information is used, how the personal information is protected, who has access to the personal information, and how the personal information is disposed.

Provides that certain persons, entities, or governmental bodies are not affected by this Act.

Provides that a person who violates this Act is liable to the state for a civil penalty in an amount not to exceed \$500 for each calendar month during which a violation occurs.

Prohibits the civil penalty from being imposed for more than one violation that occurs in a month.

Authorizes the attorney general or the prosecuting attorney in the county in which the violation occurs to bring suit to recover the civil penalty imposed.

Use of Wire, Oral, or Electronic Interception Devices—S.B. 1461

By Senator Seliger—House Sponsor: Representative Hegar

Currently, the Department of Public Safety (DPS) is only authorized to use wiretaps for investigations regarding capital murder with remuneration, felony drug, and child pornography investigations. This bill:

Authorizes a judge of competent jurisdiction to issue an order authorizing interception of wire, oral, or electronic communications only if the prosecutor applying for the order shows probable cause to believe that the interception will provide evidence of the commission of a felony under Section 19.02 (Murder), or 19.03 (Capital Murder), Penal Code.

Integration of Recipient Identification and Benefits for HHS Programs—S.B. 46

By Senator Nelson—House Sponsor: Representative Delisi

Currently, there are several health and human services (HHS) benefit programs, each with its own identification and validation mechanism. This bill:

Authorizes the Health and Human Services Commission (HHSC) to develop and implement methods, including an integrated benefits card, to consolidate identification and benefits issuance for multiple HHS services if HHSC determines such a consolidation to be feasible and cost effective.

Authorizes HHSC to develop and implement a method to consolidate, to the extent possible, recipient identification and benefits issuance for HHSC and health and human services agencies if HHSC determines that the implementation would be feasible and cost-effective.

Identifies permissible characteristics of the method to consolidate recipient information and benefits issuance, and describes required steps to be taken by HHSC in developing and implementing the method.

Requires HHSC to assess the feasibility and cost-effectiveness of using a single integrated benefits issuance card, multiple cards, or another method, for consolidating recipient identification and benefits issuance for certain health and human services programs as described in the bill.

Authorizes HHSC to consider information obtained from certain programs in conducting the assessment, and to require any health and human services agency and the Department of Information Resources to assist HHSC in performing its duties relating to the assessment.

Requires HHSC, not later than July 1, 2006, to report the findings of the assessment to the clerks of the standing committees of the senate and house of representatives having jurisdiction over health and human services issues.

Use of Genetic Testing Information by Insurers—S.B. 53

By Senator Nelson—House Sponsor: Representative Smithee

Current law protects individuals with group health insurance from the use of their genetic information to make adverse eligibility or coverage decisions and from the disclosure of their genetic information. However, this law does not apply to persons with individual health insurance coverage. This bill:

Expands current protections for genetic information and against discrimination based on genetic makeup to individual health insurance.

Right to Access Investment Information of Governmental Bodies—S.B. 121

By Senator Duncan—House Sponsor: Representative Gattis

Numerous state pension plans invest public money in the private equity marketplace. Because these investments involve public funds, the public is entitled to access information regarding those investments under the Texas Public Information Act (PIA). However, venture capital firms assert that certain portfolio information must be exempted from disclosure to ensure competition and protect trade secrets. A 2004 recent attorney general opinion has raised questions regarding what portfolio information may be subject to disclosure. There is concern that uncertainty over what information must be disclosed may affect the state's ability to invest in the private equity market. This bill:

Clarifies that 16 specific categories of information held by a governmental body relating to its investments are public information and subject to disclosure under PIA. All information prepared or provided by a private investment fund and held by a governmental body that is not listed is confidential and exempt from public disclosure.

Prevention and Punishment of Identity Theft—S.B. 122

By Senator Hinojosa et al.—House Sponsor: Representative Giddings

Identity theft is one of the fastest growing crimes in the country, with Texas having the second-highest rate of identity theft among the states. Victims can spend thousands of dollars and years of effort to clear their names. This bill:

Requires that a peace officer to whom an alleged violation of identity theft is reported, make a written report that includes the name of the victim, suspect, if known, type of identifying information obtained, possessed, transferred, or used, and the results of the investigation, and authorizes a victim to obtain a copy of the report.

Establishes the Identity Theft Enforcement and Protection Act containing provisions for prevention and punishment of identity theft and assistance to certain victims of identity theft.

Requires a business to provide notification for an unauthorized breach of security or acquisition of computerized data that compromises the security, confidentiality, or integrity of sensitive personal information maintained by a person.

Imposes a civil penalty of at least \$2,000 but not more than \$50,000 for each identity theft violation and authorizes the Office of the Attorney General (OAG) to bring an action in the name of the state against the person to restrain the violation by a temporary restraining order or a permanent or temporary injunction.

Authorizes the OAG to file in a district court in Travis County or in any county in which the offense occurred or where the victim lives.

Authorizes the OAG to recover reasonable expenses incurred in obtaining injunctive relief and civil penalties, and requires the penalty money collected by the OAG to be deposited into the General Revenue Fund and to be appropriated only for the investigation and prosecution of other identity theft cases.

Sets forth certain provisions authorizing a court to grant equitable relief to victims and authorizes a victim to file an application with the district court for the issuance of a court order to declare the individual to be a victim of identity theft.

Provides that information contained in a court order is confidential.

Provides that a violation involving the unauthorized use or possession of personal identifying information is a deceptive trade practice and is actionable.

Unauthorized Operation of Recording Device in Movie Theater—S.B. 481

By Senator Wentworth—House Sponsors: Representatives Keel and Bailey

It is estimated that in 2004, the United States film industry lost \$3.5 billion due to the use of video cameras to illegally record a movie playing in a theater. The illegal recordings were sold to source labs where they were duplicated, packaged, and sold on the black market across the country and overseas. This bill:

Makes it an offense to, with the intent to record a motion picture, knowingly operate an audiovisual recording device in a theater while a movie is being shown.

Provides that an offense is a Class A misdemeanor. A subsequent conviction is a state jail felony, and two or more convictions is a third degree felony.

Authorizes a person who reasonably believes that another is violating this Act to detain that individual in a reasonable manner and for a reasonable time to allow for the arrival of law enforcement authorities.

Residential Property Internet Information—S.B. 541

By Senator Seliger—House Sponsor: Representative Jim Keffer

Currently, a local appraisal district may post photographs of individuals' homes and property along with detailed floor plans on the Internet. This bill:

Provides that information in appraisal records may not be posted on the Internet if the information is a photograph, sketch, or floor plan of an improvement to real property that is designed primarily for use as a human residence.

Authority of Peace Officers to Conduct Certain Searches—S.B. 1195

By Senator Hinojosa—House Sponsor: Representative Dutton

Consent searches at traffic stops occur when an officer has no probable cause to believe a crime has been committed, but asks for the driver's consent to search the vehicle. This bill:

Prohibits a search of a motor vehicle stopped for an alleged violation of a law or ordinance regulating traffic, unless the peace officer has probable cause or another legal basis, conducts a search for weapons based on a fear for the officer's safety or the safety of others, has written or oral consent of the operator of the vehicle, and ensures that the oral consent is evidenced by an audio and video recording.

Requires the director of the Department of Public Safety (director), by rule, to establish requirements for a form used to obtain the consent of the operator of a motor vehicle and sets forth minimum requirements for such rules.

Requires the director, by rule, to establish requirements for the audio and video recording used to obtain the consent of the operator of a motor vehicle and sets forth minimum requirements for such rules.

Continuation of Statutes Governing Interception of Communications—S.B. 1551

By Senator Estes—House Sponsor: Representative Driver

Article 18.20, Code of Criminal Procedure, allows the Texas Department of Public Safety (DPS) to use wire intercepts as an investigative tool. The article is subject to sunset on September 1, 2005. This bill:

Repeals Section 16.02(h), Penal Code, which provides that Section 16.02 of the Penal Code, prohibiting certain interception, use, or disclosure of wire, oral, or electronic communications, expires on September 1, 2005.

Repeals Section 18, Article 18.20 of the Code of Criminal Procedure, which provides that Article 18.20, regarding certain interception, use, and disclosure of wire, oral, or electronic communications, expires on September 1, 2005.

Sunset Advisory Commission Across-the-Board Recommendations

Sunset is the regular assessment by the legislature of the continuing need for a state agency to exist. The sunset process sets a date on which an agency will be abolished unless legislation is passed to continue its functions. This creates a unique opportunity for the legislature to look closely at each agency and make fundamental changes to an agency's mission or operations if needed. Agencies are typically reviewed every 12 years. About 20 to 30 agencies go through the sunset process each legislative session.

The sunset process is guided by a 12-member Sunset Advisory Commission (commission) of legislators and public members appointed by the lieutenant governor and the speaker of the house of representatives. Assisting the commission is a staff whose reports provide an assessment of an agency's programs, giving the legislature the information needed to draw conclusions about the agencies under review.

The commission made the following across-the-board recommendations for each of the agencies under review by the 79th Legislature:

- Require public membership on the agency's policymaking body;
- Require provisions relating to conflicts of interest;
- Require unbiased appointments to the agency's policymaking body;
- Provide that the governor designate the presiding officer of the policymaking body;
- Specify grounds for removal of a member of the policymaking body;
- Require training for members of the policymaking body;
- Require separation of policymaking and agency staff functions;
- Provide for public testimony at meetings of the policymaking body;
- Require information to be maintained on complaints;
- Require the agency to use technology to increase public access; and
- Develop and use appropriate alternative rulemaking and dispute resolution procedures.

Texas Board of Chiropractic Examiners—H.B. 972

By Representative Solomons et al.—Senate Sponsor: Senator Nelson

The Texas Board of Chiropractic Examiners (board) was created in 1949. The board licenses chiropractors regulate the chiropractic profession in the state. This bill:

Continues the board until September 1, 2017.

Incorporates across-the-board recommendations of the Sunset Advisory Commission.

Requires the board to adopt rules clarifying the scope of practice of chiropractic.

Requires the board to adopt rules to prevent fraud, including rules relating to the filing of workers' compensation and insurance claims and recordkeeping.

Authorizes the board, during reasonable business hours, to conduct an on-site inspection of the chiropractic facility.

Establishes provisions for cooperation with the Texas Department of Insurance (TDI) in sharing information, tracking investigations, and collaborating on disciplinary action.

Establishes provisions for peer review committees.

Requires TDI to provide to the board any information received regarding a settlement of a malpractice claim against a chiropractor.

Sets forth behavior constituting prohibited practice by a chiropractor or an applicant for a chiropractic license.

Sets forth examples of unprofessional or dishonorable conduct that is likely to deceive or defraud the public.

Authorizes the board to order a license holder to pay a refund to a consumer instead of or in addition to imposing an administrative penalty.

Requires the board to suspend a chiropractor's license on proof that the chiropractor has been initially convicted of certain offenses.

Allows the board to issue a cease and desist order.

Establishes a criminal penalty for providing chiropractic treatment or services while intoxicated.

Texas State Board of Examiners of Psychologists—H.B. 1015

By Representative Truitt et al.—Senate Sponsor: Senator Jackson

The Texas State Board of Examiners of Psychologists (board) was created in 1969 to license qualified individuals to provide psychological services in Texas and to enforce the Psychologists' Licensing Act, including investigating and resolving complaints. This bill:

Continues the board until September 1, 2017.

Modifies the board's oral examination requirement for psychologist licensure and prohibits the board from using the oral examination to assess a person's personal characteristics.

Abolishes the Psychological Associate Advisory Committee and requires the board to seek stakeholder input earlier in its rule development process.

Incorporates across-the-board recommendations of the Sunset Advisory Commission.

Establishes provisions for practicing psychology by applicants who are licensed out of state.

Establishes provisions and restrictions in assessing the oral examination.

Establishes provisions for a temporary license to practice psychology in this state for a limited time and limited purpose.

Establishes a schedule of sanctions and provisions for disciplinary action.

Allows the board to order a license holder to refund money received for psychological services, in addition to imposing an administrative penalty.

Texas Optometry Board—H.B. 1025

By Representative Solomons—Senate Sponsor: Senator Shapleigh

The Texas Optometry Board (board) has regulated the state's optometry profession since its creation in 1921. The board licenses optometrists, therapeutic optometrists, and glaucoma specialists and enforces the Texas Optometry Act and key provisions of the state's Contact Lens Prescription Act. This bill:

Continues the board until September 1, 2017.

Incorporates across-the-board recommendations of the Sunset Advisory Commission.

Allows the board, during regular business hours, to enter and inspect a facility.

Establishes provisions for license renewal and fees.

Requires the board to appoint a three-member disciplinary panel and establishes provisions for disciplinary actions, suspension, and licensing restrictions.

Requires the board, along with the executive commissioner of the Health and Human Services Commission or the Department of State Health Services to prepare and provide information regarding the release and verification of contact lens prescriptions.

Requires the Health and Human Services Commission to adopt rules relating to contact lens prescriptions and the dispensing of contact lenses.

Sunset Review Process—H.B. 1116

By Representative Solomons et al.—Senate Sponsor: Senator Nelson

State agencies undergo periodic review by the Sunset Advisory Commission (commission). Each session a sunset scheduling bill is filed to make necessary changes to the ongoing sunset review schedule in order to balance the workload of the commission. This bill:

Moves the reviews of agencies to balance the upcoming review workload, ensures that certain agencies may be reviewed along with other similar agencies, and ensures that one agency's sunset review date coincides with that of the agency that provided administrative support when the agency first began operations.

Removes three nonfunctioning agencies and two legislative committees from sunset review:

- Criminal Justice Policy Council;
- Texas Incentive and Productivity Commission;
- State Aircraft Pooling Board;
- Property and Casualty Insurance Legislative Oversight Committee; and
- Electric Utility Restructuring Legislative Oversight Committee.

Requires the commission to study the purpose, collection, and use of certain criminal court costs and fees and parole, probation, and community supervision fees.

Texas State Board of Examiners of Dietitians—H.B. 1155

By Representative Truitt et al.—Senate Sponsor: Senator Shapleigh

The Texas State Board of Examiners of Dietitians (board) licenses and regulates dietitians in Texas. The Sunset Advisory Commission review found that the licensing and regulation of dietitians is needed, but that some of the board's processes could be improved to make them fairer and more efficient for both licensees and the public. This bill:

Continues the board until September 1, 2017.

Redefines terms to conform with the name Department of State Health Services (DSHS).

Incorporates across-the-board recommendations of the Sunset Advisory Commission.

Establishes provisions for a licensing examination.

Requires the board to develop and administer a jurisprudence examination at least twice each calendar year.

Establishes licensing renewal and fee provisions.

Allows the board to issue a cease and desist order.

Texas State Board of Examiners of Professional Counselors—H.B. 1283

By Representative Truitt et al.—Senate Sponsor: Senator Carona

The Texas State Board of Examiners of Professional Counselors (board) was created in 1981 by the 67th Legislature. The board licenses qualified individuals to provide professional counseling services; sets standards relating to the practice of counseling; ensures compliance with the Licensed Professional Counselor Act and board rules. This bill:

Continues the board until September 1, 2017.

Requires the board to adopt rules to list specific offenses for which a criminal conviction would constitute grounds for the board to take action.

Requires the board to develop and administer a jurisprudence examination at least twice each calendar year and to contract with a nationally recognized testing organization for the administration of the license examination.

Incorporates across-the-board recommendations of the Sunset Advisory Commission.

Texas State Board of Examiners of Marriage and Family Therapists—H.B. 1413

By Representative Truitt et al.—Senate Sponsor: Senator Whitmire

The Texas State Board of Examiners of Marriage and Family Therapists (board) was established in 1991 to license qualified individuals and regulate the practice of marriage and family therapy. This bill:

Continues the board until September 1, 2017.

Redefines terms to conform with the name of the Department of State Health Services (DSHS).

Incorporates across-the-board recommendations of the Sunset Advisory Committee.

Requires the board to develop and administer a jurisprudence examination at least twice each calendar year.

Increases the license renewal fee for those whose license has been expired for a certain time.

Establishes provisions for refusing licensing renewal.

Allows the board to order a license holder to pay a refund to a consumer instead of or in addition to an administrative penalty.

Allows the board to issue a cease and desist order.

Texas Midwifery Board—H.B. 1535

By Representative Truitt et al.—Senate Sponsor: Senator Shapleigh

The 68th Legislature established the regulation of midwifery with the creation of the Lay Midwifery Board in 1983 and the Texas Midwifery Board (board) in 1991. The board is responsible for licensing qualified individuals, setting standards relating to the practice of midwifery, and enforcing the Texas Midwifery Act. This bill:

Continues the board until September 1, 2017.

Redefines terms to conform with the name of the Department of State Health Services (DSHS).

Transfers rulemaking authority from the Texas Board of Health to DSHS and makes conforming changes.

Establishes provisions for board membership to be appointed by DSHS.

Incorporates across-the-board recommendations of the Sunset Advisory Commission.

Prohibits the board from proposing rules restricting advertising or competitive bidding by a licensed midwife except to prohibit false, misleading, or deceptive practices.

Establishes licensure qualifications, including a jurisprudence examination to be developed and administered by the board.

Establishes provisions for notification of examination results.

Establishes provisions for license renewal and fees.

Establishes grounds for refusal to renew a license.

Allows the board to order a licensed midwife to pay a refund to a consumer instead of or in addition to an administrative penalty.

Allows the board to issue a cease and desist order.

Texas Guaranteed Student Loan Corporation—H.B. 2274

By Representative Byron Cook et al.—Senate Sponsor: Senator Carona

The Texas Guaranteed Student Loan Corporation (corporation) was created by the legislature in 1979 to administer the Federal Family Education Loan Program in Texas. This program is a federally funded program that encourages private lenders to make loans to students and their parents to help pay for the cost of postsecondary education. This bill:

Continues the corporation until September 1, 2017.

Increases the board of directors (board) governing the corporation from nine to 11 members and establishes provisions for the composition of the board.

Requires the board to appoint an internal auditor to consult with the board on a regular basis and provide information regarding progress and results of the internal audit.

Incorporates the across-the-board recommendations of the Sunset Advisory Commission.

Texas State Board of Examiners of Perfusionists—S.B. 403

By Senator Nelson—House Sponsor: Representative Truitt

The 73rd Legislature created the Texas State Board of Examiners of Perfusionists in 1993 to ensure that health care professionals who operate cardiopulmonary bypass equipment during open heart surgeries provide safe and quality services to the public. The board licenses qualified individuals to practice perfusion, sets rules, and enforces the Act by investigating and resolving complaints. This bill:

Continues the regulation of perfusionists until September 1, 2017.

Redefines terms to conform with the name of the Department of State Health Services (DSHS).

Abolishes the governor-appointed board and transfers rulemaking authority to DSHS and makes conforming changes.

Establishes the Perfusionist Advisory Committee to be appointed by the commissioner of State Health Services.

Establishes provisions for committee membership and eligibility of public members.

Requires applicants to pass a jurisprudence examination developed and administered by DSHS to qualify for a license.

Increases the license renewal fee for those whose license has been expired for a certain time.

Establishes provisions for licensing renewal and ground for refusing renewal.

Allows DSHS to order a license holder to pay a refund to a consumer instead of or in addition to an administrative penalty.

Allows the DSHS commissioner to issue a cease and desist order.

Incorporates across-the-board recommendations of the Sunset Advisory Commission.

State Board of Veterinary Medical Examiners—S.B. 407

By Senator Jackson—House Sponsor: Representative Byron Cook

The Texas State Board of Veterinary Medical Examiners (board) was created in 1911 to ensure that safe and quality veterinary services are provided to the citizens of Texas and their animals. The board has three primary functions: licensing qualified individuals to practice veterinary medicine in Texas; setting standards relating to the practice of veterinary medicine; and enforcing the Veterinary Licensing Act, including investigating and resolving complaints. The sunset review found that the licensing and regulation of veterinarians is needed and that the board is successful in its mission, but that some of the board's processes could be improved to make them fairer and more efficient for both licensees and the public. This bill:

Continues the board until September 1, 2017.

Incorporates across-the-board recommendations of the Sunset Advisory Commission.

Requires the board to refund the examination fee paid by an applicant under certain circumstances.

Establishes provisions for license renewal and fees and imposes an administrative penalty.

Allows the board to issue a cease and desist order.

Requires the board to adopt a formal policy to focus enforcement efforts toward investigating complaints.

Establishes provisions for continuing education requirements and audits.

Public Utility Commission of Texas—S.B. 408

By Senator Nelson—House Sponsor: Representative Phil King

The 64th Legislature, 1975, enacted the Public Regulatory Act and created the Public Utility Commission of Texas (PUC) as a means of regulating the rates and services of public utilities. The PUC is a key player in the oversight of certain markets such as electric and telecommunications utilities. This bill:

Adds as purposes for which the PUC exists, to incorporate a free market oriented telecommunications sector, a deregulated electric utility sector, and to oversee cable and video service providers.

Requires an individual who represents an entity before the PUC in a contested proceeding to be an attorney, except when the PUC waives the requirement based on a determination of circumstances.

Increases the number of commissioners from three to five and defines who may serve as a commissioner, while updating the duties of commissioners and agency staff.

Continues the general power of the PUC to regulate and supervise the entities within its jurisdiction and requires the PUC to develop and implement a policy to encourage negotiated rulemakings and alternative dispute resolution.

Requires the PUC to implement a technology policy that insures that the public is able to interact with PUC on the Internet.

Limits the authority of the PUC to review mergers and acquisitions with regard to certain entities and transactions.

Preserves the power of the PUC to assess administrative penalties and increases the maximum fine to \$10,000 from \$5,000.

Requires the PUC to establish a classification system for violations.

Authorizes the PUC to issue a statewide franchise to any person seeking to provide cable or video services in this state and outlines obligations of entities franchised by the PUC.

Requires that a certified independent organization contract with an entity selected by the PUC to act as the PUC's wholesale electric market monitor to detect and prevent market manipulation strategies and recommend measures to enhance the efficiency of the wholesale market.

Allows for money in the system benefit fund to provide one-time bill payment assistance to certain eligible electric customers who have been threatened with disconnections for nonpayment.

Requires a provider of cable service or video service operating under a state franchise to pay each municipality in which it provides service a fee equal to five percent of the provider's gross revenues and defines how gross revenues are calculated.

Directs the PUC to oversee the requirements related to public, educational, and governmental access (PEG) channels.

Grants enforcement authority to the PUC related to customer service requirements and the denial of service.

Directs the PUC to adopt a policy whereby it receives and posts on its Internet site service quality customer complaints.

Allows a municipality to require providers to register with the municipality, maintain a point of contact, and submit consumer complaint information and to establish guidelines for the use of PEG channels.

Prohibits the PUC from preferring, providing advantages to, or discriminating against any cable or video service provider.

Requires the PUC to conduct a study and file a report with the legislature regarding compensation paid to cities from communication providers.

Office of Public Utility Counsel—S.B. 409

By Senator Nelson—House Sponsor: Representative Phil King

The Office of Public Utility Counsel (OPUC) was created by the legislature in 1983 to give residential and small business ratepayers adequate representation in electric and telecommunications proceedings. This bill:

Continues OPUC until September 1, 2011.

Requires OPUC to develop and implement a policy to encourage the use of appropriate alternative dispute resolution procedures.

Requires OPUC to maintain a system to promptly and efficiently act on complaints filed with the office that the office has the authority to resolve.

Requires the state auditor, in coordination with the Legislative Budget Board, to conduct a management audit of OPUC.

Requires an employee with knowledge that a potential ground for removal of the counselor exists to notify the next highest ranking employee, who is then required to notify the governor and the attorney general.

Requires OPUC to prepare and submit annually a report on the office's activities during the preceding year to the appropriate legislative committees and the Sunset Advisory Commission.

Requires OPUC to conduct a public hearing to assist the office in developing a plan of priorities and to give the public an opportunity to comment on the office's functions and effectiveness.

Texas State Board of Pharmacy—S.B. 410

By Senator Whitmire—House Sponsor: Representative Truitt

The Texas State Board of Pharmacy (board) was created in 1907 to regulate pharmacists and pharmacies. The board also provides information to licensees and the public. This bill:

Continues the board until September 1, 2017.

Requires out-of-state pharmacies to meet the same standard for licensure as Texas-based pharmacies.

Allows the board to initiate disciplinary action against an out-of-state pharmacy.

Incorporates the across-the-board recommendations of the Sunset Advisory Commission.

Requires a pharmacist or pharmacy to determine that a prescription is valid before dispensing it.

Prohibits the dispensing of a prescription drug if the pharmacist or pharmacy knows or should know that the prescription was issued on the basis of an Internet-based or telephonic consultation without a valid physician-patient relationship, and waives this requirement in an emergency.

Clarifies the board's jurisdiction over a current or expired license under certain circumstances.

Authorizes a disciplinary panel to temporarily suspend or restrict a pharmacist or pharmacy license or registration.

Increases the amount of administrative penalty the board can impose on a license holder to \$5,000 per violation per day, rather than \$2,500 for each violation.

Requires the board to adopt rules to ensure that its examinations are accessible to persons with disabilities in accordance with the Americans with Disabilities Act.

Establishes provisions for license renewal and fees.

Increases the license renewal fee for those whose license has been expired for a certain time.

Expands the range of disciplinary sanctions for pharmacy technicians and authorizes the board to discipline a pharmacy technician who receives deferred adjudication for any felony or for misdemeanors involving moral turpitude.

Requires the board to register pharmacy technician trainees and to hold these trainees to the same disciplinary grounds and actions that are applied pharmacy technicians.

Establishes provisions for licensure of pharmacists from another state.

Eliminates the Pharmacy Board Operating Account and transfers the money to the General Revenue Fund.

Provides that information regarding the home address and telephone number of licensees and registrants is confidential and not subject to disclosure under the Texas Public Information Act.

Regulation of Barbers and Cosmetologists—S.B. 411

By Senator Whitmire—House Sponsor: Representative Hamric

The Texas Board of Barber Examiners and the Texas Cosmetology Commission regulate barbers and cosmetologists to protect the health and safety of the public. The agencies license barbers and cosmetologists, instructors, shops, salons, and schools and enforce the Barber and Cosmetology Acts and agency rules by investigating complaints and conducting inspections. This bill:

Abolishes the Texas State Board of Barber Examiners and the Texas Cosmetology Commission.

Transfers the agencies' functions to the Texas Department of Licensing and Regulation (TDLR).

Requires the agency to focus its resources on inspection of barber and cosmetology facilities that require the most attention, those that violate sanitation rules.

Requires that facilities be inspected at least once every two years and clarifies TDLR's authority to charge inspection fees.

Authorizes provisional licenses for barbers, standardizes license renewal processes.

Requires barber and cosmetology schools to maintain student records.

Requires development of a method for violation and complaint trend analysis and an annual compilation of detailed statistics on violations and complaints.

Requires cosmetology and barber nail salons to use autoclaves to sanitize nondisposable instruments.

Authorizes the registration of examination proctors at TDLR who would hold a certificate enabling them to administer cosmetology and barber exams around the state.

This is not a comprehensive description of the S.B. 411 provisions.

Texas State Board of Social Worker Examiners—S.B. 415

By Senator Shapleigh—House Sponsor: Representative Truitt

In 1993, the 73rd Legislature established the Texas State Board of Social Worker Examiners (board) within the Department of Health, now the Department of State Health Services, to oversee social work by licensing qualified individuals, setting rules, and investigating and resolving complaints. As a result of sunset review, the Sunset Advisory Commission recommended continuation of the agency and several other statutory modifications that are contained in this legislation. This bill:

Continues the regulation of social workers until September 1, 2017.

Requires the board to develop and administer a jurisprudence examination at least twice each calendar year.

Provides certain prohibitions and authorizations for issuance of certain licenses to out-of-state applicants.

Authorizes conforming changes pertaining to license renewal and fees.

Authorizes the board to issue a cease and desist order and provides an administrative penalty.

Authorizes the amount for the administrative penalty to be not less than \$50 or more than \$5,000, rather than \$500, for each violation.

Incorporates across-the-board recommendations of the Sunset Advisory Commission.

Texas Medical Board—S.B. 419

By Senator Nelson—House Sponsor: Representative Solomons

Texas began regulating physicians in 1837 and created the current Texas State Board of Medical Examiners (TSBME) in 1907. In 1993, the state established both the Texas State Board of Physician Assistant Examiners and the Texas State Board of Acupuncture Examiners. The main functions of TSBME include issuing licenses to qualified individuals; investigating and resolving complaints; disciplinary action; and monitoring compliance with disciplinary orders. This bill:

Changes the name of TSBME to the Texas Medical Board (medical board) and makes conforming changes.

Continues the medical board to September 1, 2017.

Adds "professional conduct" to the evaluation of "medical peer review" or "professional review action."

Incorporates across-the-board recommendations of the Sunset Advisory Commission.

Allows the medical board to adopt rules and prescribe fees related to the issuance of a license that is limited in scope to an applicant by virtue of the applicant's conceded eminence and authority in the applicant's specialty.

Requires the medical board to adopt rules for the issuance of a license that limits the license holder to the practice of administrative medicine.

Requires the medical board to adopt rules that prescribe how the limit on the number of examination attempts shall apply to an applicant who seeks a license and who attempts more than one type of examination.

Allows the medical board to issue a faculty temporary license to practice medicine to a physician appointed by a medical school in this state and sets out qualifications.

Allows the medical board to adopt a system under which licenses expire on various dates during the year.

Requires the medical board to require a physician who delegates the carrying out or signing of a prescription drug order to maintain records that show when and to whom a delegation is made.

Provides that medical peer review documents remain confidential at the medical board and at the State Office of Administrative Hearings.

Provides that a member of an expert panel and a person serving as a consultant to the board are immune from suit and judgment and may not be subjected to a suit for damages.

Provides that a review committee consists of seven, rather than five, members and includes three, rather than one, public member.

Allows the medical board to request members of a committee to participate in an informal meeting.

Requires the medical board, in determining appropriate disciplinary action, to consider whether a violation relates directly to patient care or involves only an administrative violation.

Prohibits the medical board from dismissing a complaint solely on the grounds that the case has not been scheduled for an informal meeting within the time required.

Provides that at least one of the board members or district review committee members participating in the informal meeting as a panelist be a member who represents the public.

Establishes requirements for the roles and responsibilities of participants in informal proceedings.

Requires the medical board, in certain formal hearings, to provide evidence from its investigation that shows the basis for the medical board's findings.

Provides that a physician or an applicant for a license to practice medicine commits a prohibited practice if that person:

- performs an abortion on a woman who is pregnant with a viable unborn child during the third trimester of the pregnancy unless it is necessary to prevent the death of the woman or the viable unborn child has a severe, irreversible brain impairment or the woman is diagnosed with a significant likelihood of suffering imminent severe, irreversible paralysis; or

- performs an abortion on an unemancipated minor without the written consent of the child's parent, managing conservator, or legal guardian or without a court order authorizing the minor to consent to the abortion, unless the physician concludes that on the basis of the physician's good faith clinical judgment, a condition exists that complicates the medical condition of the pregnant minor and necessitates the immediate abortion of her pregnancy to avert her death or to avoid a serious risk of substantial impairment of a major bodily function with insufficient time to obtain consent.

Requires the medical board to adopt guidelines to enable the medical board to evaluate circumstances in which a physician or applicant may be required to submit to an examination for mental or physical health conditions, alcohol and substance abuse, or professional behavior problems.

Requires the medical board to refer a physician or applicant with a physical or mental health condition to the most appropriate medical specialist for evaluation.

Allows the board to impose a nondisciplinary rehabilitation order on an applicant if the applicant or license holder has not committed a violation of the standard of care as a result of the intemperate use of drugs or alcohol.

Establishes responsibilities of private medical associations regarding compliance with requirements necessary to assist in a physician's rehabilitation.

Allows the medical board to issue a cease and desist order.

Changes the name of the Texas State Board of Physician Assistant Examiners to Physician Assistant Board (PA board) as an advisory board to the medical board.

Authorizes conforming changes pertaining to license renewal and fees.

Establishes continuing medical education requirements.

Provides that medical board guidelines regarding physical or mental examination also apply to the PA board.

Incorporates across-the-board recommendations of the Sunset Advisory Commission for the PA board and the Texas State Board of Acupuncture Examiners (acupuncture board).

Allows the acupuncture board to delegate authority to medical board employees to issue licenses to applicants who clearly meet all licensing requirements.

Provides the same provisions for the acupuncture board and surgical assistants as for the medical board and the PA board regarding licensing and renewal, the complaint process, and disciplinary action.

Tax Revenue Use by Conservation and Reclamation Districts—H.B. 1599*By Representative Callegari—Senate Sponsor: Senator Lindsay*

Current law allows cities and water districts (districts) to contract with one another under a strategic partnership agreement and limited purpose annexation that allows the city to levy a sales tax in the commercial area of a district that it intends to eventually fully annex. The district, in return, receives a portion of the tax revenue raised by the city. This bill:

Allows the district to use the tax revenue for any purpose of the city or the district.

Required Information with Ad Valorem Tax Appraisals and Bills—H.B. 1984*By Representative Bohac—Senate Sponsor: Senator Janek*

Property owners are often unclear how their property taxes change over the years. This bill:

Requires the tax assessor collector of any county to print a five-year property tax analysis on the "notice of the appraisal value" and the property tax bill, including the percentage change in the appraised value and the percentage change in the total amount of taxes imposed on the property.

Reducing the Penalty for Failure to Make Tax Installment Payment—H.B. 2254*By Representative Rose et al.—Senate Sponsor: Senator Armbrister*

Under current law, taxpayers who are 65 years of age and over can pay property taxes in four equal installments and are assessed a 12 percent penalty and interest if payment is delinquent. Other taxpayers are assessed a six percent penalty if payment is delinquent. This bill:

Reduces the penalty for taxpayers that are 65 years of age and over to six percent.

Training Program for Chief Appraisers—H.B. 2382*By Representative Hager—Senate Sponsor: Senator Staples*

The position of chief appraiser requires considerable knowledge of all phases of real property tax assessments and appraisals. Chief appraisers must also have considerable knowledge of state statutes, policies, and procedures. This bill:

Requires the Board of Tax Professional Examiners to implement a training program for newly appointed chief appraisers.

Development Corporations and Business Enterprises—H.B. 2755*By Representatives McReynolds and Byron Cook—Senate Sponsor: Senator Duncan*

Economic development corporations (EDCs) allow cities to collect sales and use taxes for the purpose of economic development. EDCs are particularly important for smaller cities that have a difficult time competing with larger cities when trying to attract new businesses. Current law is restrictive as to how corporations can spend their revenue. This bill:

Broadens the function of 4B corporations that generate less than \$50,000 in taxes per year by allowing proceeds to be spent on projects that are not limited to primary jobs.

Allows eligible communities to fully capitalize on tax proceeds generated by 4B corporations.

Business Enterprises by Certain Development Corporations—H.B. 2928

By Representative Kolthorst et al.—Senate Sponsor: Senator Seliger

Current Texas law allows voters in eligible cities to impose a local sales and use tax dedicated to helping finance their communities' economic development projects. The economic development sales tax has become a key component of local economic development programs for communities throughout Texas. There is a need to offer a broader array of options for the use of these proceeds because different cities have different potential uses for this funding. This bill:

Amends the Development Corporation Act of 1979 to allow several additional ways for eligible cities to use their local sales and use tax proceeds, depending on certain criteria set forth in the bill.

Sets for provisions and requirements for authorization to undertake such expanded business development or improvements under this Act.

Market Value of Certain Drug Supplies for Ad Valorem Tax Purposes—H.B. 3016

By Representative Hill—Senate Sponsor: Senator Staples

Wholesale distributors sell drugs to hospitals and health care providers. Due to the nature of the health care industry and the nature of drugs specifically, these distributors generally maintain an inventory of drugs in excess of what typical market demands would otherwise require in order to meet the demand of public health purposes, emergencies, disasters, and homeland security concerns. This results in distributors holding greater than market quantities of drugs in inventory and being taxed for property tax purposes in excess of the typical marketplace.

H.B. 3016 requires the chief appraiser, in determining the market value of drug supplies held in surplus, to exclude as economic obsolescence from the market value cost attributable to drug supplies held in surplus which are in excess of the amount of drugs held for normal market purposes. This bill:

Excludes from market value of inventory excess drug supplies held in surplus for response to general public health care emergency needs by certain wholesale drug distributors. The deduction is limited to the value of drugs held for less than 60 days to be used for "catastrophic manmade or natural disasters" including "terrorist attacks and bioterrorism events."

Limits the amount of deduction to not more than 10 percent of the wholesale owner's total drug inventory.

Public Notification for Increasing Property Tax Rates—S.B. 18

By Senators Williams and Janek—House Sponsor: Representative Ritter

Currently, a local government (other than a public school district) must publish notice in a newspaper and hold a public hearing before it may adopt a tax rate exceeding 103 percent of the rate necessary to generate the previous year's tax revenue using the current year's appraised value (the "effective tax rate"). This bill:

Requires the vote on the ordinance, resolution, or order setting an ad valorem tax rate that exceeds the effective tax rate to be a record vote.

Sets forth the form by which a motion to adopt an ordinance, resolution, or order setting a tax rate that exceeds the effective tax rate must be made.

Sets forth certain notice requirements if the ordinance, resolution, or order sets a tax rate that, if applied to the total taxable value, will impose an amount of taxes to fund maintenance and operation (M&O) expenditures of the taxing unit that exceeds the amount of taxes imposed for that purpose in the preceding year.

Prohibits the governing body of a taxing unit other than a school district from adopting a tax rate that exceeds the lower of the rollback tax rate or effective tax rate until the governing body has held two public hearings on the proposed rate.

Provides that the second hearing may not be held earlier than the third day after the date of the first hearing.

Sets forth how the notice of the public hearing must read.

Requires the notice to be posted on the website, if the taxing unit operates an Internet website.

Requires the governing body if it does not adopt a tax rate that exceeds the lower of the rollback tax rate or the effective tax rate by the 14th day after the second hearing, to give new notice before it may adopt a rate that exceeds the lower of the rollback tax rate or the effective tax rate.

Sets forth what must be contained in an Internet notice posting.

Requires that a rollback election petition be signed by a number of registered voters of the taxing unit equal to at least seven percent of the number of registered voters of the taxing unit if the tax rate adopted for the current tax year would impose taxes for M&O in an amount of at least \$5 million or 10 percent of the registered voters of the taxing unit if the tax rate adopted for the current tax year would impose taxes for M&O in an amount of less than \$5 million.

Requires that a tax bill:

- (1) for real property, state for the current tax year and each of the preceding five tax years:
 - (A) the appraised value and taxable value of the property;
 - (B) the total tax rate for the unit;
 - (C) the amount of taxes imposed on the property by the unit; and
 - (D) the difference, expressed as a percent increase or decrease, as applicable, in the amount of taxes imposed on the property by the unit compared to the amount imposed for the preceding tax year;
- (2) for real property, state the differences, expressed as a percent increase or decrease, as applicable, in the following for the current tax year as compared to the fifth tax year before that tax year:
 - (A) the appraised value and taxable value of the property;
 - (B) the total tax rate for the unit; and
 - (C) the amount of taxes imposed on the property by the unit; and
- (3) include any other information required by the comptroller.

Repeals the section of the Tax Code that requires the comptroller of public accounts to prescribe the language and format to be used in the part of the notice required by Subsection (b)(2) of Section 26.06 of the Tax Code and that requires conformity with that language and format.

Use of 4A/4B Tax Revenue Revised—S.B. 252

By Senator Estes et al.—House Sponsor: Representative Delisi

Current law authorizes local 4A/4B communities to use their 4A/4B funds for economic development projects as outlined under the appropriate North American Industry Classification System (NAICS) codes. However, this limits the use of 4A/4B taxes and hinders communities which will be attempting to preserve their bases through the upcoming round of Base Realignment and Closure. This bill:

Amends the Development Corporation Act of 1979 to include military facilities in the definition of "project."

Provides that "project" also includes the infrastructure, improvements, land acquisition, buildings, or expenditures that are found by the board of directors to be required or suitable for certain military and Coast Guard-related activities.

Amends the Development Corporation Act of 1979 to include in the definition of "primary job" a job that is included under the NAICS and described as certain military entities and military bases.

Amends the Development Corporation Act of 1979 to require the corporation to have all powers necessary to own and operate a project as a business if the project is a military installation or military facility that has been closed or realigned, including a military installation or facility closed or realigned pursuant to the Defense Base Closure and Realignment Act of 1990.

Sales Tax Audit Notification Waiting Period—S.B. 263

By Senator Williams—House Sponsor: Representative Otto

Currently, when the comptroller of public accounts (comptroller) begins a sales tax audit, the identity of the individual being audited is public information at the moment the comptroller's notification letter is put in the mail. Therefore, it is possible for a situation to arise in which an audited individual is contacted by tax consultants offering their services before the individual is even aware an audit has been ordered. This bill:

Requires anyone receiving sales tax audit information through an open records request to wait until six days after the comptroller's audit letter is mailed to contact the audited individual, and provides a civil penalty for violations of that provision.

Tax Increment Financing—S.B. 771

By Senator West—House Sponsor: Representative Hartnett

A large number of vacant buildings in a downtown area can create a burden on the municipality in providing incentives for further redevelopment, impairing redevelopment and threatening the investment made by property owners needing a certain density of redevelopment. Current law does not provide the means for local governments to adequately address the problems of blight and urban decay caused by the presence of long-term vacant buildings. This bill:

Clarifies that carrying out a tax increment financing (TIF) project and the financing plan are public purposes.

Removes the uncertainty in the Tax Code as to whether the acquisition by condemnation of a long-term vacant building and the subsequent disposition of such property is allowable under the current TIF statute.

Property Appraisal Appeals—S.B. 828*By Senator Janek—House Sponsor: Representative Eiland*

Full-time active duty military personnel who are deployed overseas and individuals employed in the Gulf of Mexico in offshore drilling or production often do not receive their mail on a regular basis. As such, they often cannot protest appraisals of their property because they do not receive the notice of appraised value until it is too late to file an appraisal appeal. This bill:

Extends the deadline as to the day taxes become delinquent for active duty military personnel deployed overseas and for persons employed on an offshore drilling or production facility.

Ad Valorem Tax Refunds—S.B. 1203*By Senator Madla—House Sponsor: Representative Homer*

Currently, Section 1.111(f) (Representation of Property Owner), Tax Code, is interpreted differently by major county tax offices and larger independent school districts and tax offices may send refunds to mortgage companies or mortgage loan processors instead of to the homeowner/taxpayer or a specifically designated agent. Some taxing authorities also require a separate refund application even though the appraisal district has approved the changes to the certified tax roll which identify the refund to be paid. This bill:

Prohibits taxing authorities from requiring homeowner/taxpayers to make additional applications for refunds clearly approved by the appraisal districts.

New Property Appraisal Process Through Binding Arbitration—S.B. 1351*By Senator Williams et al.—House Sponsor: Representatives Hill and Rose*

S.B. 1351 creates a new property appraisal process after an appraisal review board hearing. This process will offer homeowners an additional avenue to contest property appraisals without having to file lawsuits. Homeowners would have the option to elect to contest their property appraisals through a binding arbitration hearing or to file a lawsuit against the central appraisal district. This bill:

Entitles a property owner, as an alternative to filing an appeal, to appeal through binding arbitration an appraisal review board order determining a protest concerning the appraised or market value of certain real property, if certain conditions are met.

Requires an appraisal review board that delivers notice of issuance of an order and a copy of the order to a property owner to include with the notice and copy a notice of the property owner's rights under this chapter, and a copy of the request form.

Requires a property owner appealing an appraisal review board order under this chapter to file certain documentation with the appraisal district in a specific time frame and a \$500 arbitration deposit, made payable to the comptroller of public accounts (comptroller).

Provides that a property owner who fails to strictly comply with this section waives the right to request arbitration.

Provides that a property owner who appeals an appraisal review board order determining a protest concerning the appraised or market value, as applicable, of the owner's property under Chapter 42, waives the right to request binding arbitration regarding the value of that property.

Requires an arbitrator to dismiss any pending arbitration proceeding if the property owner's rights are waived.

Requires the comptroller, by rule, to prescribe the form of a request for binding arbitration.

Specifies the requirements for the form.

Requires the appraisal district, by a certain date, to take certain actions to process the registration request.

Authorizes the comptroller to retain ten percent of the deposit to cover the comptroller's administrative costs.

Requires the comptroller to maintain a registry of qualified arbitrators.

Sets forth the requirements to qualify to serve as an arbitrator.

Requires the comptroller, on receipt of the request form and deposit, to send the property owner and the appraisal district a copy of the registry of qualified arbitrators and request the parties to select an arbitrator.

Authorizes the comptroller to send to the parties a copy of the registry by regular mail in paper form or written notice of the Internet address of a website at which the registry is maintained and may be accessed.

Requires the parties to attempt to select an arbitrator from the registry.

Requires the appraisal district, by a certain date, to notify the comptroller that the parties have either selected an arbitrator and request that the comptroller appoint the selected arbitrator or to notify the comptroller that the parties were unable to select an arbitrator and request the comptroller to appoint an arbitrator.

Requires the comptroller to appoint the arbitrator selected by the parties or, if an arbitrator was not selected, to appoint any arbitrator included in the comptroller's registry.

Requires the appointed arbitrator to promptly notify the comptroller that the arbitrator does not accept the appointment and to state the reason, if the arbitrator is unable or unwilling to conduct the arbitration for any reason.

Requires the arbitrator, on acceptance of an appointment, to set the date, time, and place of a hearing on the arbitration.

Requires the arbitrator to give notice of and conduct the hearing in a certain manner.

Requires the arbitrator to continue a hearing if both parties agree to the continuance; authorizes the arbitrator to continue a hearing for reasonable cause.

Entitles the parties to an arbitration under this chapter to be represented by certain persons.

Authorizes an employee of the appraisal district to represent the appraisal district in the arbitration proceeding.

Prohibits a person from serving as a party representative, presenting evidence, or making arguments in an arbitration proceeding under this chapter unless the person meets certain criteria.

Requires the arbitrator, by a certain date, to make an arbitration award and deliver a copy of the award to the property owner, the appraisal district, and comptroller.

Sets forth the characteristics of an award.

Requires the comptroller, on receipt of a copy of the award, to refund the property owner's arbitration deposit, less the amount retained by the comptroller; requires the appraisal district, on receipt of a copy of the award, to pay the arbitrator's fee; and requires the chief appraiser to correct the appraised or market value, as applicable, of the property as shown in the appraisal roll to reflect the arbitrator's determination, if the arbitrator makes a certain determination in favor of the property owner.

Requires the comptroller, on receipt of a copy of the award, to pay the arbitrator's fee out of the property owner's arbitration deposit, and refund to the property owner the arbitration deposit, less the arbitrator's fee and the amount retained by the comptroller; and requires the chief appraiser to correct the appraised or market value, as applicable, of the property as shown in the appraisal roll to reflect the arbitrator's determination, if the arbitrator makes a certain determination in favor of the appraisal district.

Authorizes the comptroller, by rule, to prescribe a standard form for an award and to require arbitrators to use the award form when making awards.

Provides that the pendency of appeal under this chapter does not affect the delinquency date for the taxes on the property subject to appeal.

Requires a property owner appealing an appraisal review board order to pay taxes on the property subject to the appeal in an amount equal to the amount of taxes due on the portion of the taxable value of the property that is not in dispute.

Requires the taxing unit, if the final determination of an appeal decreases the property owner's tax liability to less than the amount of taxes paid, to refund to the property owner the difference between the amount of taxes paid and the amount of taxes for which the property owner is liable.

Prohibits a property owner from filing an appeal if taxes on the property subject to appeal are delinquent.

Requires an arbitrator who determines that the taxes on the property subject to an appeal are delinquent to dismiss the pending appeal with prejudice.

Requires the comptroller, if an appeal is dismissed, to refund the property owner's arbitration deposit, less the amount retained by the comptroller.

Provides that an arbitration award under this chapter is considered to be a final determination of an appeal for purposes of Subchapter C, Chapter 42.

Provides that an arbitrator's determination of market value is the market value of the property subject to appeal for the purposes of the annual study conducted under Section 403.302 (Determination of School District Property Taxes), Government Code.

Authorizes the comptroller to adopt rules necessary to implement and administer this process.

Requires the comptroller to prescribe the model form for an arbitration request and to establish a registry of qualified arbitrators, as provided by this Act, as soon as practicable after the effective date of this Act, but not later than January 1, 2006.

Sales Tax Revenue and Municipal Public Securities—S.B. 1440

By Senator Hinojosa—House Sponsor: Representative Luna

Currently, a city cannot pledge sales tax revenue to secure indebtedness issued by a city. This bill:

Allows sales and use tax dollars to be used to pay or secure the payment of public securities under certain circumstances.

Taxes, Assessments, and Impact Fees on Residential Property—S.B. 1555

By Senator Gallegos—House Sponsor: Representative Melissa Noriega

When the Greater East End Management District (district) in Harris County was created, all residential properties, including multi-family residential property that was commercial in nature, were exempted from assessment. With new development and redevelopment in the district, apartments and other multi-family properties are bringing a higher density into the district, creating a need for more district services. This bill:

Repeals the text from the original statute governing the district that exempted residential properties from assessment, in order to exempt only multiunit residential property consisting of fewer than 13 units.

Traffic-control Signal Preemption Devices—H.B. 364

By Representatives Hegar and Guillen—Senate Sponsors: Senators Brimer and Deuell

Traffic control devices allow emergency personnel to manipulate traffic signals in emergency situations. However, such devices are now available to the general public on the Internet and the unauthorized use of these devices could pose traffic hazards. H.B. 364 prohibits the unauthorized use or possession of a traffic control device. This bill:

Provides that a person commits a Class C misdemeanor offense if the person uses, sells, offers for sale, purchases, or possesses for use or sale a traffic control device.

Provides that the possession of a traffic control device creates the presumption that the person possessed the device for use or sale.

Excepts a person who provides fire-fighting, law enforcement, ambulance, medical, or other emergency services in the course of providing those services; a manufacturer, wholesaler, or retailer of traffic-control signal preemption devices in the course of manufacturing, selling, providing, or transporting a traffic-control signal preemption device to an authorized person; or a transit vehicle operated by a transit authority or a transit department.

Designation of the El Camino East/West Corridor—H.B. 747

By Representative McReynolds—Senate Sponsor: Senator Staples

The states of Alabama, Georgia, Louisiana, and Mississippi have established a corridor to serve as an economic and cultural conduit encompassing the majority of the old settlers' route, El Camino Real. These states have designated this passageway in their states as the El Camino East-West Corridor. This bill:

Requires the Texas Department of Transportation (TxDOT) to design, construct, and erect markers designating the portion of State Highways 7, 21, and 103, United States Highway 290, and Interstate Highway 10 that create a route from the Pendleton Bridge in Sabine County to the El Paso-Hudspeth County line as the El Camino East/West Corridor.

Requires TxDOT to design, construct, and erect markers designating the part of Interstate Highway 10 that follows the route of the El Camino Real de Tierra Adentro in El Paso County as the El Camino Real de Tierra Adentro East/West Corridor.

Requires the El Camino Real East/West Commission to reimburse TxDOT for the cost to install the signs and requires the reimbursed funds to be deposited to the credit of the state highway fund.

Potential Tolling Projects in Unified Transportation Program—H.B. 962

By Representative Krusee—Senate Sponsor: Senator Staples

The Texas Transportation Commission and the Texas Department of Transportation (TxDOT) use the Unified Transportation Program (UTP) as a ten- year plan for transportation project development and construction. This bill:

Requires the Texas Department of Transportation (TxDOT) to adopt and include in the unified transportation program of TxDOT a list of transportation projects in each TxDOT district that TxDOT considers to be eligible and feasible for tolling.

Provides that a transportation project that is included in the list is not required to be operated as a toll project.

Texas Rail Relocation and Improvement Fund—H.B. 1546

By Representative McClendon et al.—Senate Sponsor: Senator Staples

Texas' transportation system has become increasingly congested in recent years due in part to population growth and the changing economy. The transportation of freight on the system has also grown significantly, causing a greater burden on both the highway system and the freight rail system. Following railroad industry deregulation in 1980, the industry downsized and streamlined operations and reduced capital expenditures. As the demand for freight transportation increases, the rail industry's infrastructure will be insufficient to meet the growing demand. This bill:

Creates the Texas Rail Relocation and Improvement Fund (fund), to be administered by the Texas Transportation Commission (TTC) to provide a method of financing the relocation, construction, reconstruction, acquisition, improvement, rehabilitation, and expansion of rail facilities, including freight rail lines, especially those carrying hazardous materials through urban areas, or the conversion of freight rail lines to commuter rail lines to relieve congestion on public highways to enhance public safety.

Authorizes TTC to issue and enter into credit agreements related to obligations in the name and on behalf of the state for financing the relocation, construction, reconstruction, acquisition, improvement, rehabilitation, and expansion of rail facilities.

Authorizes funds to be used to provide a method of financing the construction of railroad underpasses and overpasses if the construction is part of the relocation of the rail facility.

Pledges the full faith and credit of the state to the payment of obligations and credit agreements in the event that revenue and money for and on deposit in the fund would be insufficient to cover debt obligations.

Establishes authorizations, requirements, and limitations for issuing and aggregating obligations, investing, using, and administering the fund.

Requires that revenue dedicated or appropriated pursuant to the requirements of the Texas Constitution be deposited to the fund.

Requires the comptroller of public accounts (comptroller) to hold and certify amounts within the fund.

Requires that income received from the investment of money in the fund be deposited in the fund subject to any requirements imposed by proceedings authorizing obligations to protect the tax-exempt status of interest payable on the obligations under the Internal Revenue Code of 1986.

Prohibits TTC from issuing obligations prior to the Texas Department of Transportation (TxDOT) developing a strategic plan that would outline how funds would be used and would benefit the state.

Prohibits issuance of long-term obligations unless the comptroller projects in the comptroller's certification that the amount of the money dedicated to the fund and required to deposit in the fund will be equal to at least 110 percent of the requirements to pay the principal of and interest on the proposed long-term obligations.

Authorizes TxDOT to purchase property with the revenue from the obligations issued for any transportation purposes.

Authorizes TxDOT to sell or lease property acquired under the Act, but no longer needed with the revenue from a sale or lease to be deposited in the fund.

Forms of Payment Required of Vehicle Storage Facilities—H.B. 1584

By Representatives Casteel and Solomons—Senate Sponsor: Senator Madla

Vehicle storage facilities in some counties have the ability to set the payment options the facility will accept for payment of storage fees. Many of these facilities will only accept a cash payment. This bill:

Requires the operator of a vehicle storage facility, including certain governmental vehicle storage facilities, to accept payment by an electronic check, debit card, or credit card for any charge associated with delivery or storage of a vehicle.

Low-Income Vehicle Repair Assistance—H.B. 1611

By Representative Chisum et al.—Senate Sponsors: Senator Armbrister et al.

The 77th Legislature, Regular Session, 2001, expanded the mandatory inspection and maintenance program in the Dallas-Fort Worth and Houston-Galveston nonattainment areas and introduced the Low-Income Vehicle Repair, Retrofit, and Accelerated Retirement Program (LIRAP). LIRAP offers financial assistance to low-income vehicle owners whose vehicles fail the emissions inspection test. Qualified participants receive a voucher for emissions repairs or assistance towards the cost of a replacement vehicle that meets emissions standards if they retire their old vehicle. The purpose of this bill is to improve the operation and efficiency of LIRAP and to utilize funds generated by the program for additional air quality programs primarily in the Dallas-Fort Worth and Houston-Galveston nonattainment areas. This bill:

Requires fees collected that are available to fund programs but are not appropriated for that purpose to be transferred on receipt to the credit of a subaccount of the clean air account in an amount not to exceed \$20 million.

Prohibits money in the subaccount from being commingled with any other fees in the clean air account or with any other money in the state treasury.

Authorizes fees collected that are transferred to the credit of a subaccount of the clean air account to be appropriated only in a certain manner.

Authorizes the Texas Commission on Environmental Quality (TCEQ) to apply the same rules, standards, and requirements for the award of a grant as TCEQ applies to a grant under the Diesel Emissions Reduction Incentive Program.

Requires the local low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement programs to be administered in accordance with Chapter 783 (Uniform Grant and Contract Management), Government Code.

Provides that a vehicle is not eligible to participate in a LIRAP program unless the registration of the vehicle reflects that it has been registered in the county implementing the program for 12 months.

Authorizes a participating county to contract with any appropriate entity, including the regional council of governments or the metropolitan planning organization in the appropriate region, or with another county for services necessary to implement the participating county's LIRAP.

Authorizes money that is made available to affected or participating counties to be appropriated for programs administered to improve air quality.

Provides that this section applies only to a county with a population of 650,000 or more that borders the United Mexican States.

Provides that the sum of \$1 million in money from the subaccount established in this Act is appropriated to Dallas County and the regional planning commission for the area including Dallas County for the purpose of developing and implementing a pilot inspection and maintenance program in the Dallas-Fort Worth nonattainment area.

Requires Dallas County and the regional planning commission to report to TCEQ on the results of the pilot program not later than December 31, 2007.

Speed Limits on Highways in Rural Counties—H.B. 2257

By Representative Gallego—Senate Sponsor: Senator Madla

Road travel is challenging and time consuming for rural Texans who live in sparsely populated areas of the state. This bill:

Increases from 75 to 80 miles-per-hour the existing maximum daytime speed limit on portions of Interstate Highway 10 and Interstate Highway 20 located in the counties of Crockett, Culberson, Hudspeth, Jeff Davis, Kerr, Kimble, Pecos, Reeves, Sutton, or Ward if the Texas Transportation Commission (TTC) determines it to be a safe and reasonable speed.

Authorizes TTC to establish a daytime speed limit of 75 miles per hour on a segment of the highway system located in a county with a population density of less than 15 persons per square mile.

Local Government Participation in the Financing of Turnpike Projects—H.B. 2650

By Representative Krusee—Senate Sponsor: Senator Brimer

Local government participation in turnpike projects is restricted under current law. This bill:

Authorizes a local government to enter into an agreement with the Texas Department of Transportation (TxDOT) or a private entity to assist in the financing of the construction, maintenance, and operation of a turnpike project located in the government's jurisdiction in return for a percentage of the revenue from the project.

Authorizes the local government to use any revenue available for road purposes, including bond and tax proceeds, to provide financing for a turnpike project covered by the agreement.

Requires revenue received by a local government under an agreement to be used for transportation purposes.

Requires TxDOT to approve an agreement with a private entity.

Use of Tax Increment Financing for Transportation or Transit Projects—H.B. 2653

By Representative Krusee—Senate Sponsor: Senator Barrientos

Transit-based development places a mix of residential, retail, shopping, schools, and public parks, and green spaces within walking distance of transit stations. The use of tax increment financing districts (TIFs) is critical to the ability of local jurisdictions to finance infrastructure for these developments. This bill:

Authorizes cities and counties to purchase real property rights on land outside certain reinvestment zones for a "bus rapid transit project" or a "rail transportation project."

Authorizes a TIF agreement to include provisions for the use of TIF funds to pay the costs of acquiring land, development rights, or conservation easements located outside the reinvestment zone if:

- the zone is to be served by a rail transportation project or bus rapid transit project;
- the acquisition is for the purpose of preserving the land in its natural or undeveloped condition; and
- the land is located in the county where the zone is located.

Authorizes the board of directors of a reinvestment zone, if all of the members of the board are appointed by the municipality that creates the zone, or the governing body of the municipality that creates a reinvestment zone to enter into an agreement only if:

- the board or the governing body determines that the acquisition of the land, or the development rights or conservation easement in the land, located outside the zone benefits or will benefit the zone by facilitating the preservation of regional open space in order to balance the regional effects of urban development promoted by the rail transportation project or bus rapid transit project; and
- the municipality that creates the reinvestment zone and the county in which the zone is located pay the same portion of their tax increment into the tax increment fund for the zone.

Prohibits property acquired for purposes of this Act from being acquired through condemnation.

Transportation Facilities and Transportation in Texas—H.B. 2702

By Representative Krusee—Senate Sponsor: Senator Staples

H.B. 3588, 78th Legislature, Regular Session, 2003, and H.B. 2, 78th Legislature, Third Called Session, 2003, addressed issues related to providing the tools necessary for the Texas Department of Transportation (TxDOT) to address current transportation needs. This bill:

Amends provisions in the Transportation Code to provide the Texas Transportation Commission (TTC) and TxDOT with additional flexibility to acquire, finance, maintain, manage, operate, own, and control transportation facilities in Texas.

Allows TTC to grant TxDOT the authority to borrow money from any source to carry out the functions of TxDOT.

Specifies that any money borrowed through the issuance of notes by TxDOT would be considered a state security and would be subject to approval by the Bond Review Board.

Requires utilities to pay for the cost of relocating their facilities to accommodate a toll project unless the utility has a property interest or the toll project was in development prior to September 1, 2005.

Authorizes TxDOT, a regional mobility authority, a regional tollway authority, or a county acting under Chapter 284 (Causeways, Bridges, Tunnels, Turnpikes, and Highways In Certain Counties), Transportation Code, to enter into an agreement for the payment of pass-through tolls to an authority or county, for maintaining a highway or portion of a state highway transferred to the mobility authority or county and converted to a toll facility.

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Authorizes payment to TxDOT of pass-through tolls by an authority or county as reimbursement for all or a portion of the costs incurred by TxDOT to design, develop, finance, construct, and maintain a state highway or portion of a state highway transferred to the authority or county and converted to a toll facility.

Requires money repaid to TxDOT to be deposited to the credit of the fund from which the money was originally provided.

Authorizes TxDOT to enter into a Comprehensive Development Agreement (CDA) for non-toll highway projects.

Authorizes certain counties to transfer to TxDOT transportation projects that have outstanding bond indebtedness, provided that TTC agrees to the transfer and agrees to assume the outstanding bond indebtedness.

Establishes procedures to be used by TxDOT to enter into and operate in CDAs for the purpose of providing rail transportation facilities.

Eliminates the annual cap on monies that can be disbursed from the State Highway Fund for rail facilities and the annual cap of \$25 million on state and federal funds that TxDOT may disburse for non-highway facilities on the Trans-Texas Corridor.

Authorizes TxDOT to enter into pass-through fare agreements with a public or private entity that would reimburse, from any available funds, the public or private entity for costs incurred in the acquisition, design, development, financing, construction, relocation, maintenance, or operation of a passenger or freight rail facility and requires TTC to develop criteria and adopt rules for determining the amount of pass-through fares to be paid.

Provides that, except for funds received from toll revenue bonds issued to pay for all or part of the cost of a toll project and toll revenue collected from non-tolled highways converted to toll roads, toll revenue collected or received by TxDOT be deposited in the State Highway Fund.

Authorizes a regional tollway authority (RTA) to transfer all or any of its assets, including work product for a project under development, to a regional mobility authority (RMA), only with the approval of each RTA member county commissioners court.

Requires the RMS, if work product is transferred, to reimburse the RTA for certain expenses.

Authorizes an RMA to transfer assets to an RTA and establishes the procedures for such a transfer.

Authorizes an RTA, if it acquires a transit provider with taxing authority, to impose a sales and use tax at a permissible rate that does not exceed the rate approved by the voters who reside in the service area of the transit provider's transit system.

Establishes as the permissible rates that could be imposed, a rate of one-quarter of one percent to one percent, in one-quarter of one percent increments.

Authorizes the assessment of compensable damages to a property owner, as determined by court-appointed special commissioners in a condemnation proceeding, for early possession of real property for a toll project.

Requires the special commissioners to consider decreased access to or from remaining property resulting from the condemnation of a tract or parcel of real property for any state highway system purposes.

Abolishes the State Aircraft Pooling Board (SAPB) and transfers all powers and duties of SAPB to TxDOT.

Repeals Section 222.103(h), Transportation Code, relating to cost participation, which establishes an annual limit of \$800 million for money granted each year, by TxDOT, for participation in the cost of a toll facility.

Authorizes TxDOT to seek funding from public and private sources to acquire and operate hydrogen-fueled vehicles and to establish and operate hydrogen refueling stations in accordance with the provisions of the bill.

Authorizes TxDOT to purchase and operate in each area in which a refueling station is established four vehicles with hydrogen internal combustion engines and either three fuel-cell vehicles, one hydrogen internal combustion engine bus, or one fuel-cell bus, upon receiving such funding.

Authorizes TxDOT to establish hydrogen refueling stations on the Trans-Texas Corridor.

Transfers the Texas Railroad Commission's rail safety program to TxDOT.

Authorizes counties to issue bonds, with a maximum maturity of 40 years, to construct, maintain, or operate toll or non-toll projects or facilities on the state highway system in the county, or as a continuation of the project or facility in adjacent counties, and to pledge, for the payment of bonds issued pursuant to the bill, revenues from any available source, including payments received under agreements with TxDOT, and including pass-through toll agreements.

Creates a private activity bond program for highway facilities or surface freight transfer facilities in Texas.

Requires TxDOT, if the Texas attorney general makes a determination that the United States Congress had enacted legislation amending the Internal Revenue Code to include highway facilities or surface freight transfer facilities among the types of facilities for which private activity bonds could be used, to administer the program and establish a process by which TxDOT would receive and evaluate applications for the issuance of private activity bonds.

Removal of Convenience Switches from Motor Vehicles—H.B. 2793

By Representative Bonnen—Senate Sponsor: Senator Jackson

Due to the presence of mercury-containing convenience light switches in motor vehicles, mercury can be emitted to the atmosphere when shredded vehicles are melted in high-temperature processes as part of the steel recycling process. The United States Environmental Protection Agency intends to pass regulations this year, requiring the reduction of mercury emissions, and will recognize state removal programs as a method of compliance. This bill:

Establishes a convenience switch removal and collection program to be administered by the Texas Commission on Environmental Quality.

Develops plans for the removal, storage, recycling of mercury-containing switches in end-of-life vehicles in Texas.

Requires recordkeeping on the capture rate of the switches.

The El Camino Real de los Tejas National Historic Trail—H.B. 3269

By Representative Blake et al.—Senate Sponsor: Senator Staples

The Texas Historical Commission (THC) is the state agency for historic preservation. THC staff consults with citizens and organizations to preserve Texas' architectural, archeological, and cultural landmarks. This bill:

Requires THC, in cooperation with the National Park Service, to administer and coordinate the efforts of state and local public and private entities in the state regarding the preservation of El Camino Real de los Tejas National Historic Trail.

Requires THC to develop educational and interpretive programs relating to El Camino Real de los Tejas National Historic Trail.

Sale or Transfer of Real Property to Certain Indian Tribes—H.B. 3333

By Representative Chavez—Senate Sponsor: Senator Madla

The sale or transfer of real property that was acquired for highway purposes is regulated by the Transportation Code. When a property is no longer needed, the priority of transfers or sale of the property must be given to a governmental entity with the authority to condemn the property before offering the property to the general public. The Texas Transportation Commission (commission) is also required to offer the property to abutting or adjoining landowners before offering it to the general public and the sale of property to the general public is required to be made through a competitive sealed bid process. This bill:

Requires the commission to give priority for a property sale or transfer to a federally recognized Indian tribe whose reservation is located on the Texas-Mexico border before offering the property to the general public.

Creating the Texas Rail Relocation and Improvement Fund—H.J.R. 54

By Representative McClendon et al.—Senate Sponsors: Senators Staples and Shapleigh

The railroad industry was deregulated in 1980. Since that time the industry has downsized and streamlined operations and reduced capital expenditures. As the demand for freight transportation increases, the rail industry's infrastructure will not be sufficient. This proposition:

Creates the Texas Rail Relocation and Improvement Fund (fund) and authorizes the Texas Transportation Commission (TTC) to issue and sell obligations of the state payable from, and secured by a pledge of and a lien on all or part of the money on deposit in the fund, as that aggregate amount is projected by the comptroller of public accounts (comptroller).

Requires the proceeds of any obligation issued to be deposited in the fund and to be used for specified purposes.

Authorizes the legislature to dedicate to the fund one or more specific sources or portions, or a specific amount of the revenue, including taxes, and other money of the state not otherwise dedicated by the Texas Constitution.

Provides that obligations issued under the authority of this resolution are not included in the computation of the limit on state debt payable from the General Revenue Fund, required by Section 49-j, Article III, of the State Constitution, with certain exceptions.

Authorizes the legislature, by law, to authorize TTC to guarantee the payment of any obligations issued and executed by TTC under the authority of this resolution by pledging the full faith and credit of the state to those payments.

Provides that if that authority is granted, an appropriation must be made and deposited to the fund, out of the first money coming into the state treasury in each fiscal year that is not otherwise appropriated by the constitution in an amount sufficient to pay the principal and interest on the obligations that become due during that fiscal year, minus any amount in the fund that is available for those payments.

Alcohol and Drug Tests of Holders of Commercial Driver's Licenses—S.B. 217

By Senator Shapiro—House Sponsor: Representative Driver

Federal law requires companies operating commercial vehicles to comply with prescribed drug and alcohol-testing programs for commercial drivers. Companies are required to provide pre-employment testing, random testing, probable cause testing, and post-accident testing.

Current state law requires motor carriers to provide only positive drug test information to the Department of Public Safety (DPS). S.B. 217 expands the required reporting of verified positive controlled substances to include the reporting of positive alcohol tests and expands the law to include all Texas commercial driver's license holders. This bill:

Amends Chapter 644 (Commercial Motor Vehicle Safety Standards), Transportation Code, to require employers who are compelled to conduct alcohol and drug tests of an employee who holds a commercial driver's license under Chapter 522 (Commercial Driver's Licenses), Transportation Code, to report to DPS a positive result, a refusal to provide a specimen, or provision of an adulterated, diluted, or substituted specimen.

Defines a valid positive result for alcohol as a concentration of .04 or greater and a valid positive result for drugs at or above the cutoff concentration levels stated in 49 C.F.R. Section 40.87.

Requires DPS to maintain in confidentiality the testing information and authorizes the department to release the information only to authorized individuals as provided by Section 521.053 (License Renewal Procedures), Transportation Code.

Repeals Section 643.064 (Report of Positive Result), Transportation Code.

Authorization of Districts, Issuance of Bonds, and Eminent Domain—S.B. 433

By Senator Wentworth—House Sponsor: Representative Casteel

Excepting the statute for Dallas-Fort Worth Airport, Texas statutes do not specifically authorize the state, counties, or municipalities, jointly or independently, to form political subdivisions for the purpose of forming and managing airports and heliports. This bill:

Provides that the economic well-being of the state and the general welfare of its residents require adequate, safe, secure, and efficient aviation facilities at a reasonable cost. Provides that the purpose of this Act is to authorize the creation by the state, counties, and municipalities, through their independent or joint action, airport districts, corporate and politic, constituting political subdivisions of the state, for the purpose of improving certain navigation facilities; financing the cost of certain activities by the issuance of bonds or other obligations of a district payable from the income of the district and otherwise secured to the extent permitted by law without the incurrence of debt by the state or by a political subdivision; and promoting and facilitating transportation by air from or to points located within the state, to the benefit and general welfare of the state, including its political subdivisions and inhabitants.

Authorizes certain political subdivisions of the state, including a public corporation, with or without consideration, to provide certain services.

Provides that all transfers of land, licenses, easements, or other property are subject to the continuing right of a utility to maintain existing facilities in those locations and to be reimbursed for any required relocation, removal, or adjustment of those facilities.

TRANSPORTATION

Provides that an airport district created under this chapter is not an airport authority under Section 12 (Airport Authorities), Article IX, Texas Constitution.

Authorizes and sets forth the requirements for a district to organize as a public corporation.

Authorizes an additional county or municipality to become part of a district if each additional county or municipality and each county or municipality in the district adopts a resolution consenting to the inclusion of the additional county or municipality in the district and requires all rights, contracts, obligations, and property, both real and personal, of a municipality or county used for or in relation to transportation by air to vest in the district created under this subchapter unless otherwise specified by the resolution including the municipality or county in the district.

Authorizes the governor, on behalf of the state, to authorize the state to join in the creation of a district under this subchapter or to join an existing district created under this subchapter.

Sets forth the requirements and procedures for the certificate of incorporation of a district.

Establishes the eligibility, composition, and terms of board members, and certain guidelines and membership appointment and removal procedures. Prohibits an officer of the state, a county, or a municipality from being eligible to serve as a board member.

Sets forth certain requirements and procedures governing the operations and meetings of the board. Requires all board proceedings to be reduced to writing by the secretary of the district and open to board members and to the public at all times. Provides that copies of the proceedings, when certified by the secretary of a district under its seal, are admissible in a court as evidence of the matters certified in the proceedings.

Prohibits a board member from receiving compensation but entitles the board member to reimbursement for actual and necessary expenses.

Sets forth certain general powers and duties of a district. Authorizes a district to acquire or operate an airport located in the district's jurisdiction that is not served by an air carrier engaged in scheduled "interstate air commerce," as defined by 14 C.F.R. Section 1.1, on or before the effective date of the Act.

Provides that a district is exempt from municipal or county zoning laws, ordinances, and regulations. Provides that a district has the same zoning powers, for certain purposes, as a municipality that owns or operates an airport.

Prohibits a district from acquiring by eminent domain certain real property or rights.

Provides that before a district may own, acquire, construct, or operate an airport or an airport facility within the corporate limits of a municipality, a majority of the governing body of the municipality is required to vote in favor of the proposed airport or airport facility.

Authorizes the district to employ security officers who have obtained a peace officer license issued by the Commission on Law Enforcement Officer Standards and Education.

Establishes taxing and bonding authority and procedures for a district and sets forth certain tax and bonding exemptions.

Texas Clean Fleet Program—S.B. 1032*By Senator Ellis—House Sponsor: Representative Swinford*

Currently, the Texas Clean Fleet Program (TCFP), requiring emission standards for transit fleet vehicles, is codified in state statute, but has been superseded by federal standards. The federal standards require cleaner fleet vehicles than specified in current state statute. This bill:

Repeals TCFP from state statute.

Creation of a Study Commission on Transportation Financing—S.B. 1713*By Senator Staples—House Sponsor: Representatives Krusee*

During the 78th Legislature, Regular Session, 2003, many new financing options were adopted to assist the state in addressing the transportation needs of the state. The effectiveness of the changes need to be evaluated. This bill:

Creates the Study Commission on Transportation Financing (commission) and charges it with reviewing the state motor fuels tax, current sources of funding for rail, and other financing options for all modes of transportation.

Sets forth the membership composition and the appointing entities of the commission. Provides that each member of the commission serves at the will of the person who appointed the member.

Requires the lieutenant governor to designate one of the appointed senators and requires the speaker of the house of representatives to designate one of the appointed house members to serve together as joint presiding officers of the commission.

Prohibits a member of the commission from receiving compensation for service on the commission but entitle the commissioner to reimbursement of the travel expenses incurred by the member while conducting the business of the commission, as provided by the General Appropriations Act.

Authorizes the commission to accept gifts and grants from any source to be used to carry out a function of the commission.

Requires the commission to conduct public hearings and study public policy implications relating to the financing of transportation projects, including:

- a review of the state motor fuels tax to evaluate the efficacy of the state motor fuels tax in funding the transportation needs of this state;
- examine and evaluate the expenditure of funds from the state highway fund;
- review of the current sources for funding rail transportation projects to evaluate the options for rail funding, including their efficacy in funding identified rail needs of the state, and identify other possible sources for funding; and
- review of all other financing options for all modes of transportation, including but not limited to motor vehicle user fees and fines, bonding, and other debt financing methods.

Requires the commission, not later than December 1, 2006, to issue a report summarizing any hearings conducted by the commission, any studies conducted by the commission, any legislation proposed by the commission, and any other findings and recommendations of the commission resulting from its work.

Texas No-Call List and National Do-Not-Call Registry Aligned—H.B. 210

By Representative Solomons—Senate Sponsor: Senator Shapleigh

There are important differences between the Texas no-call list, adopted in 2001, and the Federal Trade Commission's (FTC) national do-not-call registry, adopted in 2002. This bill:

Amends the Business & Commerce Code to authorize the Public Utility Commission of Texas (commission) to contract with a private vendor to maintain the Texas no-call list if the private vendor has maintained a no-call list database containing the names and telephone numbers of consumers who have previously requested to be added to a no-call list, rather than a private vendor who has maintained a national no-call list database for more than two years containing the names and telephone numbers of consumers in this state who have previously requested to be added to the vendor's national do-not-call list.

Provides that the Texas no-call list is a combined list consisting of the name and telephone numbers of each consumer in this state who has requested to be on that list and of each person in the portion of the national do-not-call registry maintained by the United States government that relates to this state.

Requires that the commission develop and make available an Internet website at which a person may request that a telephone number be placed on the Texas no-call list and provide a toll-free telephone number and a mailing address that persons may call or write to obtain a copy of a form to request placement of a telephone number on the Texas no-call list.

Authorizes the commission or its designee to provide information on the Texas no-call list to the administrator of the national do-not-call registry and to allow placement of the names and telephone numbers contained on the Texas no-call list in the national do-not-call registry.

Customer Consent Required for Public Cellular Directory—H.B. 2553

By Representative McCall—Senate Sponsor: Senator Gallegos

Concern regarding privacy issues currently exists as a result of the possibility that the Cellular Telecommunications and Internet Association could create a cellular phone number directory. This bill:

Defines "commercial mobile service provider."

Prohibits a commercial mobile service provider (provider) doing business in this state from publishing in a directory or providing for publication in a directory the name and telephone number of a mobile service customer in this state without the express consent of the customer.

Requires the consent of a customer to be given in writing, verbally, or on the provider's website.

Authorizes a customer who consents to revoke that consent at any time.

Authorizes the attorney general to investigate violations and file civil enforcement actions seeking injunctive relief, attorney's fees, and civil penalties in an amount not to exceed \$1,000 for each violation.

Authorizes the court, if it finds the defendant willfully or knowingly is in violation, to increase the amount of the civil penalties to an amount not to exceed \$3,000 for each violation.

Easing School Transfer Angst for Military Dependents—H.B. 25

By Representative Delisi et al.—Senate Sponsor: Senator Van de Putte

With the war in Iraq, military issues have garnered attention. School transfers are hard on students, and military dependents transfer frequently. This bill provides a list of issues for the Texas Education Agency (TEA) to address relative to military transfers. Some of its provisions apply to all students. This bill:

Requires TEA to assist school transfers of military dependents by:

- improving timely student record transfers;
- developing systems to ease their first two weeks in a new school;
- promoting practices to provide access to extracurricular activities;
- establishing procedures to lessen the effects on a student who transfers to a new school for his or her senior year, encouraging or maintaining partnerships between schools and military bases;
- encouraging school districts to assist military dependents in applying to and seeking financial aid for postsecondary education; and
- providing any other assistance identified by TEA.

Requires a school district to admit any student who does not live in the district but whose grandparent does reside there and provides substantial after-school care for the student.

Requires a school district to transfer student records within 10 working days of the date a request for the information is received by the district, and, when a parent requests school records, to notify the parent that the school can provide an unofficial copy to the parent if requested.

Requires a parent to submit required information within 30 days of a student's enrollment.

Requires the commissioner of education to select one or more national norm-referenced tests and performance standards to administer for the purpose of graduation of a high school student who enrolls after January 1 of his or her senior year in a Texas public school for either the first time or after an absence of four years from a Texas school.

Requires TEA to report to specified legislative committees on its efforts to assist military dependents in school transfers.

Possession of Child During Military Deployment—H.B. 260

By Representative Goodman—Senate Sponsor: Senator Averitt

Many provisions in the Family Code contain inconsistent or outdated terminology and do not reflect current practice or case law.

Under current law, military parents who are deployed in a foreign country cannot designate their parental visitation rights to other family members while they are overseas. Legally, the child's custodial parent may keep the child from the deployed parent's family for the entire time he or she is deployed. This means that a child may be separated from stepparents, grandparents, siblings, and other family members for extended periods of time. This bill:

Amends the Texas Family Code, including:

- making certain procedural changes;
- granting a grandparent or other person standing to seek managing conservatorship in certain situations;
- clarifying which persons are entitled to service of citation in suits affecting parent-child relationships;
- authorizing a court to decline to honor a mediated settlement agreement in certain circumstances;
- setting out when a child may be interviewed by the court in chambers; and
- setting out how long a court retains jurisdiction regarding child support.

Adds provisions regarding possession of or access to a child during the military deployment of the child's possessory or a joint managing conservator who does not have the exclusive right to designate the child's primary residence:

- Authorizes a court to:
 - permit the conservator to designate a person who may exercise limited possession of the child during any period that the conservator is deployed outside of the United States; and
 - provide for limited possession of the child by the designated person, if in the best interest of the child.
- Provides that after the deployed parent returns, the designated person's right to limited possession is terminated.
- States that the military deployment outside this country of such possessory or joint managing conservator is a material and substantial change of circumstances sufficient to justify a court's modification of an existing court order regarding the possession of or access to a child.
- Authorizes a court, if the court determines that modification is in the best interest of the child, to modify the order to provide for limited possession by a person designated by the deployed conservator during the period of the deployment.

Concealed Handgun Licenses for Military Personnel—H.B. 322

By Representative Hupp et al.—Senate Sponsor: Senator Estes

Currently, all citizens must be at least 21 years old to obtain a concealed handgun license. All citizens, except senior citizens, currently have to pay the full fee for a concealed handgun license. United States military personnel under the age of 21 cannot legally carry a concealed handgun in Texas and being outside the United States for extended periods of time leads to the expiration of licenses for those who are eligible to carry a concealed handgun. This bill:

Provides that a person who is at least 18 years of age, but not yet 21 years of age, is eligible for a license to carry a concealed handgun if the person is a member or veteran of the United States armed forces, including a member or veteran of the reserves or national guard, or was discharged under honorable conditions, and meets the other eligibility requirements except for the minimum age required by federal law to purchase a handgun.

Provides that the issuance of a license to carry a concealed handgun to an eligible person does not affect the person's ability to purchase a handgun or ammunition under federal law.

Requires an applicant for a license to carry a concealed handgun to submit to the director of public safety's designee two recent color passport photographs of the applicant, except that an applicant who is younger than 21 years of age must submit two recent color passport photographs in profile of the applicant.

Requires the Department of Public Safety of the State of Texas to reduce by 50 percent any fee required for the issuance of an original, duplicate, modified, or renewed license if the applicant for the license is a member of the United States armed forces, including a member of the reserves, national guard, or state guard.

Hazlewood Act Expanded—H.B. 503

By Representative Guillen et al.—Senate Sponsor: Senator Fraser

The Hazlewood Act allows for tuition and fee exemptions for certain military personnel and certain children of those personnel who served in various wars from the Spanish-American War through the Persian Gulf War. Current law, however, does not mention service members who are serving in the current conflict. This bill:

Amends the Education Code to include all persons who were honorably discharged from the armed forces of the United States after serving on active military duty, excluding training, for more than 180 days and who served a portion of their active duty during the national emergency by reason of certain terrorist attacks that began on September 11, 2001, in the list of people that the governing boards of each institution of higher education is required to exempt from payment of tuition and fees, with certain stipulations.

Diplomas for Military Dropouts—H.B. 1058

By Representative Pickett et al.—Senate Sponsor: Senator Zaffirini

With the high visibility of military personnel, the legislature extended school districts' authority to grant high school diplomas to certain veterans. This bill:

Expands the pool of veterans eligible to receive a high school diploma by permitting a high school to issue a high school diploma to a person who dropped out of school before 1975 to serve in the Korean War or the Viet Nam War.

Grave Markers for Members of State Military Forces—H.B. 1318

By Representative Dawson—Senate Sponsor: Senator Jackson

Currently, the state does not provide grave markers for members of the state military forces who have served the State of Texas. This bill:

Requires the adjutant general to provide a grave marker for a decedent who served in the state military forces on the request of certain individuals.

Authorizes certain individuals to request a grave marker from the adjutant general.

Provides that a person is not eligible for a grave marker under this section if the person is eligible for a grave marker under federal law.

Requires the adjutant general to model the grave markers after the grave markers provided by the federal government.

Economic Development Projects to Assist Defense Communities—H.B. 2340

By Representatives Corte and Leibowitz—Senate Sponsor: Senator Shapleigh

The United States Department of Defense (DoD) has announced plans to transition United States military forces and to achieve federal savings through the 2005 Base Realignment and Closure (BRAC) process, which could close as much as 25 percent of DoD's base infrastructure. With the military and related industries in Texas producing a combined estimated fiscal impact of \$77 billion and employing hundreds of thousands of Texans, the closure of one of 18 major military installations could have an impact on certain Texas communities.

As the DoD realigns its forces, Texas could gain missions, including thousands of troops. While this expansion could have a positive effect, the affected communities will also have the responsibility to build new infrastructure to accommodate the increased population.

Currently, the State of Texas has three major tools to assist pre-BRAC and post-BRAC defense communities: the Defense Economic Adjustment Assistance Grant (DEAAG) provides appropriated grants to communities adversely affected by base realignment or closure; the Military Value Revolving Loan Fund provides loans to communities attempting to increase the military value of an existing base; and the Defense Economic Readjustment Zone Program (DERZ) allows qualified businesses to receive state tax incentives if they relocate to a designated area where a base has been closed or realigned. This bill:

Amends the Government Code to address loans to communities adversely affected by defense base reduction. Among the additions:

- Authorizes the Texas Military Preparedness Commission (commission) to provide a loan of financial assistance to a defense community for an economic development project that minimizes the negative effects of a defense base reduction on the defense community.
- Authorizes the commission, if it determines that the funds will be used to finance an economic development project that will reduce the negative effects of a defense base reduction on the defense community and the project is financially feasible, to award a loan to the defense community for the project.

Amends the Government Code to address loans for communities positively affected by defense base restructuring. Among the additions:

- Authorizes the commission to provide a loan of financial assistance to a defense community for an infrastructure project to adjust to new or expanded military missions assigned to a military facility located in, near, or adjacent to the defense community as a result of the United States Department of Defense base realignment process.
- Requires the commission, if it determines that the project will assist the defense community in accommodating the new or expanded military missions that are assigned to the military facility, to make certain analyses and evaluations of the defense community's ability to repay certain loans.

Amends the Government Code to require that grants be awarded to adversely affected defense-dependent communities in preference to positively affected defense-dependent communities.

Amends the Government Code to authorize the Office of Economic Development and Tourism within the Office of the Governor to make a grant to an eligible local governmental entity to construct infrastructure and other projects necessary to accommodate the new or expanded military missions at a facility located in or near the local governmental entity.

Amends the Government Code to provide that a defense-dependent community that contains or is near more than one military facility is considered an adversely affected community if the local government entity is applying for a grant for a project relating to the military facility that is closed or whose operations are significantly reduced.

Bonds for Facilities Leased to the Federal Government—H.B. 2931

By Representative Delisi—Senate Sponsor: Senator Fraser

The Texas Military Preparedness Commission was created by the 78th Legislature, Regular Session, 2003, through S.B. 652 to assist communities in accomplishing economic development projects that support the military. The Texas Military Preparedness Act of 2003 was designed by state government and defense community leaders working together as a proactive response to the evolving transformation of national defense strategies and the infrastructure changes required to support them. This bill:

Allows defense communities to lease facilities to the federal government to enhance the value of a military facility near the community.

Veterans' Performance Incentive Award—H.B. 3113

By Representative Corte—Senate Sponsor: Senator Seliger

The federal Jobs for Veterans Act of 2002 created financial and non-financial performance incentive awards for quality services provided to veterans in order to encourage improvement in employment, training, and placement services for those individuals. The cash awards are funded entirely by federal funds, which by law amount to one percent of the total funding to each state, or about \$100,000 for Texas.

Employees who are eligible to receive the awards include state employees who provide services as Disabled Veterans Outreach Program representatives and local veterans employment representatives. However, because of Texas law, state employees are only allowed to receive awards of up to \$50, while other employees may receive larger awards. This bill:

Authorizes a state agency to make a performance incentive award to a classified employee for providing services to veterans as provided by the Jobs for Veterans Act, if the employee meets certain requirements.

Database for Hazlewood Participants—S.B. 101

By Senator Van de Putte—House Sponsor: Representative McClendon

The Hazlewood Act entitles eligible veterans, and the children of service members who die during or directly due to their service in the armed forces, to free tuition and free or reduced fees for up to 150 college credit hours at publicly supported institutions of higher education (IHEs).

Currently, IHEs independently manage the Hazlewood tuition exemptions. Due to the lack of a centralized database, there is no way for IHEs to track veterans' eligibility and use of benefits. This bill:

Requires the governing board of each IHE to electronically report to the Texas Higher Education Coordinating Board (board) the information required relating to each individual receiving an exemption from fees and charges under the Hazlewood Act.

Requires an IHE to report the information no later than December 31 of each year for the fall semester, May 31 of each year for the spring semester, and September 30 of each year for the summer session.

Requires the board to develop a system to electronically monitor the use of tuition exemptions.

Requires the system to allow the board to electronically receive, for each semester, certain information from an IHE.

Deadlines Extended for Professionals on Military Active Duty—S.B. 143

By Senator Wentworth—House Sponsor: Representative McClendon

Current law states that the continuing professional education (CPE) hour requirement and certificate renewal deadline for a professional license is five years after the last day of the certificate holder's birth month. The law also states that armed forces reservists must adhere to state agency rules and regulations concerning license renewal. This bill:

Amends the Texas Education Code and the Texas Occupations Code to extend the deadline for the completion of CPE and educator certification renewal for persons in the armed forces or reserves serving on active duty.

Allows armed forces reservists to extend the time period to complete the CPE hours required for educator certification renewal, effectively extending the certificate renewal deadline commensurate with time spent on active duty.

Establishes renewal procedures relating to a professional license held by a reservist serving on active duty.

Texas Purple Heart Medal Among New Military Honors—S.B. 955

By Senator Seliger—House Sponsor: Representative Melissa Noriega et al.

The Federal Cavalry Medal, created during World War II, is no longer awarded. Texas does not currently have a state award equivalent to the Purple Heart Medal, nor does the Texas National Guard have a state award for combat service.

The Texas National Guard has set aside funds for the creation of military medals and awards. The creation of these new medals would honor those qualified individuals in the Texas National Guard for their service to their state and country. This bill:

Amends the Government Code to provide that the adjutant general may adopt rules and regulations relating to the Texas Cavalry Medal, the Texas Combat Service Ribbon, and the Texas Purple Heart.

Sets forth certain criteria for the awards.

Defense Adjustment Management Corporation—S.B. 1105

By Senator Madla—House Sponsors: Representatives Uresti and Corte

Texas law provides for the creation of municipal management districts to include areas within the corporate limits of a municipality. Since the passage of the Defense Base Closure and Realignment Act, areas in and around former military bases have faced challenges regarding annexation. This bill:

Authorizes the governing body of a municipality to create a defense adjustment management authority (authority) in an area that is a base efficiency project and is in an area that has been annexed or disannexed for full or limited purposes by a municipality with a population of at least 1.1 million.

Makes modifications to the required information to be stated on a notice pertaining to the hearing on the creation of the authority.

Requires school districts whose boundaries overlap, with an authority by 5,000 or more acres, to collectively appoint three members of the board.

Provides that the presiding officer of an authority is an exception to the rule that directors are appointed for terms of two years.

Authorizes the board of directors of a district (board) to vote to annex or disannex territory to an authority.

Provides for additional guidelines regarding certain powers of the authority.

Texas Code of Military Justice Sentencing Provisions—S.B. 1217

By Senator Seliger et al.—House Sponsor: Representative Corte

The Texas Code of Military Justice (TCMJ) currently limits the sentencing discretion of the commander of a soldier to demoting the individual equivalent to the rank to which the commander can promote the said individual. This has caused delay in the administration of the lowest and least significant of the TCMJ punishments. It also creates a situation where the highest ranking officer in the state must take action on a relatively insignificant disciplinary issue. TCMJ sentencing provisions have not been reviewed since 1987. This bill:

Authorizes a reduction of not more than two pay grades if imposed by a commanding officer who is a colonel or above and a reduction of not more than one pay grade if imposed by a commanding officer who is a grade lower than colonel, among the disciplinary punishments for minor offenses without the intervention of a court martial.

Increases the maximum punishable fines and incarceration period for particular military offenses tried by court martial.

Emergency Leave for State Employees on Military Duty—S.B. 1345

By Senator Van de Putte—House Sponsor: Representative Berman

Current state law allows for 15 days of annual paid leave for the purposes of military training and active duty deployments. The law also entitles all deployed military members to an unpaid leave of absence from their state positions, with no loss of years of service accrual, and secures a return to their former position on return from duty. State agencies are required to grant emergency leave to deployed individuals for the purposes of providing differential pay, if the deployed military member's gross salary on active duty is less than their state salary.

Current law mandates that state agencies consider the "gross" salary of deployed military members for the purposes of calculating a pay differential, with hazardous pay allowances, hardship pay, and family separation allowances counted in this calculation. This bill:

Strikes the "gross" payment language from the military pay calculation and adds language to specifically exempt combat zone pay, hardship pay, and family separation pay from the computation of military pay for the purposes of arriving at a differential pay amount.

Provides that the state auditor will establish uniform guidelines for state agencies in determining the amount of emergency leave to grant to deployed military members for the purposes of providing differential pay.

Protection from Payday Loans for Military Families—S.B. 1479

By Senator Shapleigh et al.—House Sponsor: Representative Corte

Members of the military and their families are prime targets for payday lenders. Military personnel are paid regularly, never get laid off, and face penalties for failing to repay debts. This makes them a wise investment for payday lenders because the chances of default are very slim. Lenders know they will recoup their money because they can call the commanders of soldiers who do not pay their debts. Soldiers who do not pay can face a court-martial and, in some cases, can be discharged. This bill:

Protects military members and their families from certain actions by payday lenders by requiring a lender, before engaging in a payday loan (deferred presentment transaction) to provide to a customer who is a member of the United States military or the member's spouse a written statement that clearly and conspicuously states certain requirements and restrictions for the lender.

Prohibits a lender from contacting the employer of a member of the United States military about deferred presentment debt of the member or the member's spouse.

Prohibits a lender from engaging in collection activity against a certain military borrower and spouse of a certain military borrower.

Prohibits a lender from garnishing the wages of a borrower who is a member of the United States military or the member's spouse.

Powers and Duties of the Texas Military Preparedness Commission—S.B. 1481

By Senator Shapleigh—House Sponsor: Representative Corte

Texas is home to an array of defense installations, defense dependant communities, and defense industries. Texas' 18 major military installations comprise 11 percent of the nation's military forces. Texas' history with past Base Realignment and Closure rounds shows that there is little certainty in the economic outcome for a defense dependent community. Some closures have resulted in economic benefits for both the Department of Defense and the defense communities while other closures have left communities struggling to recover from the economic loss.

The 78th Legislature created the Texas Military Value Revolving Loan Fund, through which defense communities can access low-rate loans through the issuance of general obligation bonds. However, when created, the fund was only directed to communities preparing for BRAC 2005. This bill:

Allows the Texas Military Preparedness Commission (TMPC) to provide a state loan, through the Texas Military Value Revolving Loan Fund, to defense dependent communities to reduce the negative effects of a defense base reduction.

Allows the TMPC to provide financial assistance to a community positively affected by the assignment of new or expanded military missions.

Reforming the Texas Workers' Compensation System—H.B. 7

By Representative Solomons et al.—Senate Sponsor: Senator Staples

The Texas Workers' Compensation Act lays out a system of benefits for employees injured on the job. The system is administered through the Texas Workers' Compensation Commission (TWCC) and, to some extent, through the Texas Department of Insurance (TDI). Numerous studies demonstrate that Texas has one of the most costly and least effective workers' compensation systems in the country. This bill:

Abolishes TWCC and designates TDI to oversee the workers' compensation system.

Creates the division of workers' compensation (division) within TDI, administered by the workers' compensation commissioner (commissioner).

Sets out the qualifications, compensation, powers, and duties of the commissioner and the powers, and duties of the division.

Sets out statutory goals of the workers' compensation system, which includes ensuring that injured employees receive services to facilitate their return to work.

Requires the commissioner to adopt rules for the filing of complaints and to ensure that information regarding the complaint process is available on the division's Internet website.

Requires the commissioner to implement a strategic management plan to evaluate the division's effectiveness and to develop regulatory goals for assessing the performance of insurance carriers and health care providers.

Requires the division to use these performance assessments to develop regulatory tiers rating carriers and providers and to develop incentives to promote compliance and performance by carriers and providers.

Provides that the division will perform the workforce education and safety functions for the workers' compensation system.

Requires TDI to operate regional offices throughout the state as necessary to implement the duties of TDI and the division regarding workers' compensation.

Provides definitions, including for "evidence-based medicine," "health care reasonably required," and "network" or "workers' compensation health care network."

Creates the office of injured employee counsel (office), to represent the interests of workers' compensation claimants.

Requires the governor, with the advice and consent of the senate, to appoint the injured employee public counsel (counsel), and sets out the qualifications and duties for such counsel, including administering the office and supervising the work of the ombudsman office.

Sets out the duties of the office, which include providing assistance to workers' compensation claimants and advocating on behalf of injured workers as a class.

Creates the workers' compensation research and evaluation group (group) within TDI and sets out the duties of the group, which include conducting research regarding the cost, quality, and effectiveness of the workers' compensation system.

WORKER'S COMPENSATION

Provides that an employee may not waive a cause of action for injuries against an employer who does not provide workers' compensation coverage unless:

- the employee voluntarily enters into the waiver with knowledge of the waiver's effect;
- the waiver is entered into no earlier than the 10th day after the date of the initial injury report;
- before signing the waiver, the employee received a medical evaluation from a nonemergency care doctor; and
- the waiver is in writing and specifically states the intent of the parties.

Provides the commissioner more discretion in levying administrative penalties for various violations.

Revises laws regarding examination by a designated doctor (a doctor appointed by mutual agreement of the parties or by the commission), including expanding the disputed issues for which the commissioner may order an exam.

Establishes requirements for designated doctors and provides that the commissioner shall actively monitor such doctors and may restrict or remove a doctor from the designated doctor list

Requires an injured employee to submit to a single medical examination to define the compensable injury on the request of the insurance company, and further provides that :

- the exam is to be performed by the employee's treating doctor;
- any treatment for an injury not approved by the insurance company must be preauthorized; and
- any treatment for an injury accepted by the insurance carrier as compensable at the time of the examination cannot be reviewed for compensability, but may be reviewed for medical necessity.

Provides that requirements regarding the list of doctors approved for treating injured employees (approved doctors list or ADL) expire September 1, 2007. The commissioner may waive these requirements earlier if the commissioner determines that:

- injured employees have adequate access to health care providers through the networks; or
- injured employees who are not within such network do not have adequate access to health care for compensable injuries.

Provides that doctors who contract with networks are not required to register for ADL, but must comply with certain requirements.

Bars certain doctors from providing health care under workers' compensation, including those who, before September 1, 2007, were deleted or suspended from ADL.

Requires the commissioner to adopt rules regarding the electronic submission and processing of medical bills by health care providers to insurance carriers.

Authorizes the commissioner to identify areas of Texas with less access to health care providers and to adopt standards, guidelines, and rules regarding the delivery of health care in these underserved areas.

Sets time periods for the submission, denial, payment, and auditing of health care claims.

Sets out procedures for reimbursement of an insurance carrier for payment for inappropriate health care.

Requires the commissioner to adopt a closed formulary (only drugs on a preferred list will be covered).

Requires the commissioner to adopt a fee schedule for pharmacy and pharmaceutical services.

Requires the commissioner to study the issue of accreditation of interdisciplinary pain rehabilitation programs or facilities (treat patients using an interdisciplinary team of health care providers to identify and address medical and rehabilitation needs) and to recommend statutory changes.

Sets out the state average weekly wage and provides that after October 1, 2006, such wage shall be equal to 88 percent of the average weekly wage in the covered employment as computed by the Texas Workforce Commission. The commissioner may increase this wage to an amount not to exceed 100 percent.

Requires persons receiving supplemental income benefits to demonstrate an active effort to obtain employment.

Requires the division and the Department of Assistive and Rehabilitative Services to report to the legislature by August 1, 2006, on their actions to improve access to and the effectiveness of vocational rehabilitation programs for injured employees.

Requires the division to develop and publish a list of information that will be useful to parties to a benefit review conference or contested case hearing.

Sets out education requirements for benefit review officers.

Authorizes the commissioner to remove arbitrators who are not fair or impartial or do not make awards consistent with the statutes or commissioner rules.

Requires the appeals panel (hearing appeals of hearing officer decisions) to issue a manual of precedent-establishing decisions.

Requires the division to provide educational material in English and Spanish to employers and employees regarding employees' rights to report unsafe working conditions.

Requires the division to monitor independent review organizations (organizations providing independent review process for workers compensation claims when treatment is found not to be medically necessary) regarding their performance and compliance with commissioner rules.

Sets out what elements must be specified in a decision by an independent review organization.

Requires the commissioner by rule to adopt treatment guidelines that are evidence-based and outcome-focused.

Authorizes the commissioner to adopt rules relating to disability management designed to promote early appropriate treatment and improve outcomes.

Establishes a return-to-work pilot program for small businesses to promote the early and sustained return-to-work of an employee with a compensable injury.

Requires the division to provide information and assistance to employers and employees to enhance the ability of injured employees to return to work.

WORKER'S COMPENSATION

Prohibits the misuse of the division's name or symbols and imposes civil and administrative penalties.

Provides that an employee of The University of Texas System or The Texas A&M University System may elect to use and exhaust accrued sick or annual leave before receiving income benefits.

Creates the Workers' Compensation Health Care Network Act, which authorizes the establishment of workers' compensation care networks (networks) by workers' compensation insurance carriers and employers.

Requires the group to conduct research on the impact of networks, evaluate the cost and quality of health care provided by those networks, and issue annual report cards comparing the networks.

Provides that a political subdivision that self-insures must provide workers' compensation coverage through a network if the governing body determines that provision of such benefits through a network is available to the employees and practical for the subdivision.

Requires the commissioner in every even-numbered year to report to the governor, lieutenant governor, and speaker of the house of representatives regarding the impact of the reforms in this Act on workers' compensation and sets out what this analysis must include.

Authorizes the commissioner, if the commissioner subsequently disapproves the rate or filing on which a premium was based, to impose certain sanctions.

Defines underwriting guidelines regarding workers' compensation insurance and provides that such guidelines must be sound, actuarially justified or otherwise commensurate with the contemplated risk, and may not be unfairly discriminatory.

Requires the commissioner to hold each biennium, beginning no later than December 1, 2008, a public hearing to review rates charged for workers' compensation coverage.

Makes conforming and technical changes.

Work-Related Exposure to a Reportable Disease—S.B. 665

By Senator Barrientos—House Sponsor: Representative Naishtat

Current law provides that a law enforcement officer, a firefighter, an emergency medical service employee or paramedic, or a correctional officer may request a health authority to order testing of another person who may have exposed the person to a reportable disease, including HIV infection. In a county jail setting or other correctional facility, individuals such as nurses or counselors may be exposed to a reportable disease, but are not included under current law. This bill:

Adds an employee, contractor, or volunteer who performs a service in a correctional, secure correctional, or secure detention facility to the list of persons who may request testing of another person who may have exposed them to a reportable disease.

Eligibility for Unemployment Benefits of Persons with Disabilities—H.B. 481

By Representative Hochberg—Senate Sponsor: Senator Zaffirini

The Texas Workforce Commission requires that a person must be seeking full-time work to receive partial unemployment benefits. Persons with disabilities that prevent them from working a full-time job are unable to receive partial unemployment benefits after being discharged from a part-time job. This bill:

Provides that a permanently disabled individual is considered able to work and available for work if, as a result of the individual's disability, the individual meets certain criteria.

Allows persons with disabilities who are seeking part-time work to be eligible to receive partial unemployment benefits.

Prohibits benefits from being charged to the account of an employer based on wage credits earned by an employee who is eligible for benefits under this Act.

Veterans Serving on Local Workforce Development Boards—H.B. 720

by Representative Berman—Senate Sponsor: Senator Van de Putte

Currently, veterans who serve on a local workforce development board are not required, exclusively, to represent veterans and may not be aware that they are the designated veteran on the board. This bill:

Clarifies that a veteran on a workforce development board is serving as a representative of his or her fellow veterans, in accordance with the Workforce Development Act.

Specifies that the designated veteran on the workforce development board must represent veterans' interests.

Workforce Development Programs Provide Financial Literacy Training—H.B. 900

By Representative Chavez et al.—Senate Sponsor: Senator Zaffirini

Under current law, financial literacy is not required in workforce development programs. Workforce development programs serve displaced workers by providing them with the training necessary to obtain jobs in new fields. Workers in these programs tend to have low incomes, and studies have shown that individuals with low incomes are more likely to be placed in a sub-prime lending category, thus being more susceptible to predatory lending practices. Low credit scoring or no credit scoring keeps these individuals in the cycle of paying exorbitant interest rates and fees. This bill:

Requires the Texas Workforce Commission (TWC) and local workforce development boards to ensure that each workforce development program offered in this state includes training in financial literacy.

Requires the division of workforce development at TWC to develop materials and information to be included in the required training.

Authorizes TWC to accept a donation of services, money, or property that TWC determines furthers the financial literacy training program.

Requires the donation to be accepted in an open meeting by a majority of the voting members of TWC and to be reported in the public records of TWC along with the name of the donor and the purpose of the donation.

Disqualification of Employees for Unemployment Compensation—H.B. 1745

By Representative Seaman—Senate Sponsor: Senator Carona

The Texas Unemployment Compensation Act (TUCA) sets out specific conditions that employees of temporary help firms must satisfy in order to become eligible to receive unemployment benefits. These conditions include a requirement that employees contact the temporary help firm for reassignment upon completion of an assignment. However, the TUCA does not permit the temporary help firm a period of time in which to find new work for the temporary employee. Consequently, temporary employees may file claims for unemployment benefits when a temporary help firm does not instantly offer new work upon completion of assignment, even though work may become available shortly thereafter. In the 2004 calendar year, 8,991 workers filed unemployment claims based on separation from temporary help firms and there were no subsequent claims filed, which indicated that these individuals returned to work shortly after filing their initial claims. This bill:

Amends the Labor Code to provide that an individual who last worked for a temporary help firm is not considered to be unemployed until three business days have passed since the date the individual's last assignment ended.

Developing New Job Incentive Programs—H.B. 2421

By Representative Chavez et al.—Senate Sponsor: Senator Zaffirini

Under current law there is no workforce development program specifically aimed at creating employment opportunities and increasing the job skills of the existing workforce in rural and medium-sized communities in Texas. This bill:

Creates a new program to award grants for the creation and retention of jobs in rural and medium-sized communities. The grant money will be competitively awarded to companies based on each application's anticipated economic impact.

Encourages additional economic development by creating incentives to help finalize local economic development by authorizing the Texas Workforce Commission, by rule, to establish and develop additional job incentive programs that use the skills development fund to create incentives for public community and technical colleges in partnership with one or more employers to provide workforce training in an effort to create and retain employment opportunities in this state.

Provides that the skills development economic stabilization fund is established as a special trust fund outside of the state treasury in the custody of the comptroller, separate and apart from all other public money or funds of this state.

State-Funded Job Training Programs Available to Veterans—H.B. 2604

By Representative Guillen—Senate Sponsor: Senator Van de Putte

Current state law provides for state-funded entities to give preference to veterans in hiring for open positions. Most veterans have work experience, training, and discipline that proves valuable in other forms of state service. This bill:

Extends the same veteran preference to state programs as required by federal law. Federal law requires any employment training program to prioritize veterans in providing training services, including the DVOP/LVER programs (disabled veteran outreach program and local veterans employment representative).

Extends a veteran preference for entry into job training and employment assistance programs that are offered by state agencies.

Extends this preference for entry into job training programs not run by state agencies that are at least partially funded by the state.

Transfers the operation of the special veteran employment programs from the Texas Workforce Commission to the Texas Veterans Commission.

Provides for the establishment of a transition team and the creation of a memorandum of understanding to transfer the veteran employment programs from the Texas Workforce Commission to the Texas Veterans Commission.

Acquisition of Unemployment Compensation Experience—H.B. 3250

By Representative Ritter—Senate Sponsor: Senator Fraser

States use an "experience rating" system to assign tax rates to a business based on its history of unemployment insurance claims. Generally, a business with a large number of unemployment claims will have a high experience rating and a correspondingly high tax rate. Employers engage in the State Unemployment Tax Act (SUTA) dumping when they try to lower the amount of tax they pay by altering their experience ratings.

In 2004, congress acted on President Bush's proposal to end the abusive practice known as SUTA dumping by which some employers pay less than their fair share of state unemployment taxes.

In August of 2004, the president signed federal legislation which requires states to have laws against SUTA dumping in place by 2006, and to impose penalties for violation of the state law provisions on both employers and tax advisors. This bill:

Amends the Texas Unemployment Compensation Act to incorporate federal provisions so that the state remains in conformity with federal law.

Establishes penalties for those who advise businesses to violate state laws since SUTA dumping is largely due to advice by tax advisors.

Employment Services for Families of Military Personnel—S.B. 212

By Senator Shapleigh—House Sponsor: Representative Melissa Noriega

Along with the 190,000 military personnel, there are thousands of military spouses, dependents, and family members stationed in Texas. As service members are transferred to Texas installations, families from around the country and abroad are uprooted and working dependents are forced to leave their employment and find work in Texas. This bill:

Requires the Texas Workforce Commission (TWC) to provide employment assistance services to the spouses and dependents of military personnel who are assigned to duty in Texas.

Requires TWC to provide those services in cooperation with the local workforce development boards in areas of the state having a defense community.

Authorizes TWC to accept and apply for certain funds from public and private sources to fund the commission's duties and to use the money from job training funds and other money appropriated by the legislature to implement the requirements.

Rules for Entities Contracting with Workforce Development Boards—S.B. 998

By Senator Madla—House Sponsor: Representative Uresti

Currently, some local entities that contract with workforce development boards (boards) are being prohibited, by rule, from using their own name and logo in the provision of services. Instead, they are required to use the board's name, logo, and tag-line. This bill:

Amends the Government Code, to require the Texas Workforce Commission (TWC), in consultation with local workforce development boards and by rule, to establish contracting guidelines for boards, including guidelines designed to ensure that an entity that contracts with a board may use, display, and advertise the entity's name when providing workforce services for the board.

Requires TWC to adopt rules as added by this Act, as soon as practicable after the effective date of this Act.

Provides that rules adopted by TWC, as added by this Act, apply to any existing contract for one-stop workforce services.

Unemployment Compensation for Certain Military Spouses—S.B. 1342

By Senator Van de Putte—House Sponsor: Representative Campbell

Currently, the Texas Labor Code provides for persons who leave work for certain reasons to claim and receive unemployment compensation. However, current law makes no provision for a military spouse. Military spouses are often required to leave a job because of a military service member's transfer of duty. This bill:

Reenacts and amends the Labor Code to prohibit benefits computed on wage credits of an employee or former employee from being charged to the account of an employer if the employee's last separation from the employer's employment before the employee's benefit year resulted from a move from the area of the employee's employment that was made with the employee's spouse who is a member of the United States military and was related to certain changes of station or tours of duty of that spouse.

Amends the Labor Code to prohibit an individual who is available to work from being disqualified for benefits because the individual left work because of a move from the area of the individual's employment that was made with the individual's spouse who is a member of the United States military and was related to certain changes of station or tours of duty of that spouse.

Wage Claim Disputes—S.B. 1408

By Senator Estes—House Sponsor: Representative Byron Cook

Employees may file a claim with the Texas Workforce Commission (TWC) against their employer for pay to which the employee believes he or she is entitled but has not received. Under current law, wage claims are adjudicated at the hearing officer level, and TWC has no authority to review those decisions. As a result, wage claims are not able to be appealed or assessed for quality, nor can cases be adopted as precedents to help TWC provide guidance to both the hearing officers and the public as to how the law should be interpreted. This bill:

Gives TWC review authority of wage claims in the same manner as used in unemployment compensation hearings.

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